

Cr. Rev. No. 460/2022
Chirag Patnaik Vs. State & Anr.

19.05.2023

Present : Sh. Sarim Naved an Sh. Akran Khan, Ld. Counsels for the revisionist.
Sh. G.S. Guraya, Ld. Addl. PP for the State / respondent no. 1.
Sh. Ashish Dixit, Ld. Counsel for the complainant.

TCR received.

Arguments heard.

Parties are at liberty to file brief written submissions within 01 week with supply of advance copy to each other through whatsapp / e-mail. It is clarified that written submissions filed beyond the permissible time or without supply of advance copy to each other will not be considered.

Put up on **13.07.2023** for order.

Rajinder Singh
ASJ-06/NDD/PHC/ND
19.05.2023

(R)

**IN THE COURT OF SH. RAJINDER SINGH
ASJ-06, NDD, PATIALA HOUSE COURTS, NEW DELHI**

CR. No. – 460//2022

In the matter of:

Chirag Patnaik

S/o Sh. Barada Prasad Patnaik
R/o T-4-4902, Crescent Bay
Bhoiwada, Parel, Mumbai 400012.

....Revisionist

Versus

State (NCT of Delhi)

New Delhi.

....Respondent

Date of Filing	:	18.08.2022
Date of Hearing of Final Arguments	:	13.07.2023
Date of Order	:	23.08.2023

1. Brief facts.

1.1 The present revision petition has been preferred against order dated 16.04.2022 of Ld. MM, Mahila Court-01, Patiala House Court, New Delhi District. Vide this impugned order Ld. Trial Court held that charge for the offence punishable U/s 354/509 IPC was made out against the revisionist/accused. It was further held that no charge for the offence punishable U/s 354-A IPC is made out against the revisionist/accused.

1.2 There is nothing on record to suggest that the State has challenged the impugned order with regard to Section 354-A IPC. As such, in the present revision decision will be taken only with regard to framing of charge against the revisionist/accused U/s 354-A IPC.

1.3 Brief facts as mentioned in the complaint, it is stated that the complainant is working as Social Media Manager, in the social media cell of a National Level Political Parties. Ms. Divya Spandana is the Chairperson of the Cell. The accused Chirag Patniak is the aide of the Chairperson. It is alleged that the accused/revisionist on many occasions made the complainant uncomfortable with his frequent immoral behavior and violation of personal space of the complainant. Between 04.04.2018 to 23.05.2018, on many occasions, upon the pretext of checking the tweets, the accused violated the personal space of the complainant and came too close to her. The accused used to 'encircle' the complainant from behind (sic). The accused used to exhale into the breathing space of the complainant. The accused tapped on the shoulders and hands of the complainant without any reason. The accused used to gaze at the body contours of the complainant.

2. Arguments.

2.1 It was submitted on behalf of the revisionist that on page no. 87 of the paper book is the statement of Ms. Divya Spandana. In this statement, there is no mention of any complaint by the complainant on 14.05.2018. In the email dated 17.05.2018 sent by the complainant to Ms. Divya Sapandana, it was stated that the complainant is resigning due to health issues.

2.2 The accused had no intention of outraging the modesty of the complainant. It was further submitted that innocuous tapping on the shoulders and hands did not cause any harm. In this regard, Ld. Counsel for the revisionist/accused relied upon Section 95 IPC.

2.3 With regard to Section 509 IPC, Ld. Counsel for the revisionist submitted that there are no allegations of making any gestures or uttering any words or making any sounds.

2.4 Ld. Counsel for the revisionist / accused relied upon the judgments titled as *Ashok Kumar Nayyar v. State 2007 SCC Online Del 676 and Ms. Neelam Mahajan Singh v. Commissioner of Police & Ors. ILR (1994) I Delhi 181.*

3. Written submissions filed by the revisionist / accused; perused.

4. Ld. Counsel for the complainant submitted that the accused was holding a position of authority vis a vis the complainant. The judgment *Ashok Kumar Nayyar* (supra) will come into play only during the trial when the witnesses have been examined. The complainant filed complaint 19 days after submitting her resignation. Section 95 IPC is a matter of defence, which can be taken up only during trial. Section 509 IPC is made out, even if, some person gazes at the victim/complainant.

5. Reasons For Order.

5.1 In the complaint there are specific allegations that the revisionist/accused tapped upon the shoulders and hands of the complainant without any specific reason. In view of the other allegations as mentioned in the complaint, at this stage there is no reason to believe that the revisionist/accused tapped upon the shoulders and hands of the complainant in an innocuous manner or out of some legally justifiable compulsion/reason

5.2 The act of tapping upon the shoulders and hands of the complainant by the revisionist/accused amounts to use of criminal force since it resulted in annoyance to the complainant. Ld. Counsel for the revisionist / accused

mentioned Section 95 IPC. In this Section 95 IPC, the words used are “if that harm is so slight that no person of ordinary sense and temper would complain of such harm”. In my considered opinion any annoyance caused to a female (complainant/victim) due to the unwelcome advances of a male, cannot be called a “slight harm”, for which a female of ordinary sense and temper should not complain.

5.3 Section 509 of the IPC, uses the word “gesture”. Prima facie, gazing at the body contours of a female so as to make her uncomfortable would be an insult to her modesty. In the complaint, there are specific allegations that the revisionist used to gaze at the body contours of the complainant.

5.4 Ld. Counsel for the revisionist pointed towards delay caused in the filing of the complaint. It was also argued that at the time of submitting of resignation, the reason cited was about ill health of the complainant. All these issues are a matter of trial.

6. In view of the above discussion, this court does not find any reason warranting interference in the impugned order.

7. Accordingly, the present revision petition is dismissed. Copy of this order be sent back with TCR.

8. Revision file be sent back to record room after due compliance.

**PRONOUNCED IN THE OPEN
COURT ON 23.08.2023**

**(RAJINDER SINGH)
ASJ-06/NDD/PHC/NEW DELHI**