

22.08.2025

State Vs. Ayan Das

FIR No. 05/19

PS Sarai Rohilla

Present: Sh. Arvind Pandey, Ld. Substitute APP for the State.
Accused in person.
Sh. Pritthish Roy, and Khushboo Sharma, Ld. counsels for accused person.
(through VC).

Vide this order, it shall be decided as to whether charges u/s 354A IPC are made out against the accused or not.

Arguments already heard. Record perused.

Ld. APP for the State had submitted that there are allegation against the accused qua offence punishable u/s 354A IPC and accordingly, has prayed for framing of charges against the aforesaid accused.

Per contra, Ld. counsel for the accused had argued that the primary allegations against the accused does not reveal any prima facie case against him. It was further submitted that the complainant refused to submit her mobile phone for forensic examination and instead of submitting her phone, the complainant merely shared screenshots of selected WhatsApp chats. It was further submitted that on the other hand, the accused had diligently submitted his phone to the IO which was sent for Forensic Analysis and it is unequivocally stated in the supplementary chargesheet, which included the FSL result, that no adverse chats and/or messages or photos shared between the accused and the complainant could be found from his mobile. It was then argued that the WhatsApp chat printouts submitted by the complainant did not establish any offence under section 354A of the IPC and a plain reading of the chats revealed that the complainant was an active and willing participant in the conversations with the accused and moreover, the exchanges occurred in a private context between two adults who were in discussion for a prospective matrimonial alliance. Ld. Counsel further argued that it is

clear from the contents of the chargesheet that at no point did the complainant express discomfort or object to the tone or content of the messages of the accused. Further, that the chats lacked any instance of unwelcome physical advances, demand for sexual favours, or sexually coloured remarks without consent which are necessary ingredients for establishing sexual harassment under Section 354A IPC. It was also argued that the complainant failed to produce any specific material to prove a confirmed matrimonial alliance with the accused and that, mere purchase receipts of jewellery, sarees or household items, without any mention of the accused or the alleged marriage, cannot establish that the expenses were made due to any inducement by the accused. Reliance has been placed on *Asim Shariff v NIA, (2019) 7 SCC 148*, which clarifies that while considering discharge, the learned trial judge can sift and weigh the evidence to see if a prima facie case is made out. If there is grave suspicion against the accused, charges should be framed, but if only a mere suspicion exists, discharge is justified. Accordingly, it is prayed on behalf of the accused that he be discharged of the offence u/s 354A IPC.

It is settled principle that at the stage of framing of charge it is to be seen whether a prima facie case is made out. At this stage, merits of the case shall not be examined and roving inquiry into the pros and cons of the matter/evidence is not to be made and the consideration cannot be whether the accused will be convicted or acquitted.

The Hon'ble Supreme Court in the case titled as **Union of India vs. Prafulla Kumar Samal and Anr, AIR 1979 SC 366**, elaborated upon the principles which shall be taken into consideration while examining the question of framing the charge, which are as follows:

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge :

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out:

(2) *Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.*

(3) *The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.*

(4) *That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced Judge cannot act merely as a Post Office or a mouth-piece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."*

Furthermore, it has been held in the case decided by Hon'ble High Court of Delhi titled as **Kanshi Ram v. State, 86 (2000) DLT 609** as follows:

*"It is well settled that at the stage of framing of charge, the Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging there from taken at their face value disclose the existence of all the ingredients constituting the alleged offence. The Court cannot act as a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the documents produced before the court, any basic infirmities appearing in the case and so on. In **Satish Mehra Vs . Delhi Administration, JT 1996 (7) SC 6** , it was held that if the court is almost certain that there is no prospect of the case ending in conviction and the trial would be an exercise in futility or sheer wastage of time, it is advisable to truncate or snip the proceedings at the stage of Section 227 of the Code itself."*

In the present case, perusal of the chargesheet shows that the complainant and the accused met each other as prospective life partners. It is clear from the

chargesheet that marriage related talks were going on between them. Thereafter, the complainant has alleged that they accused only wanted to use her physically and when she denied to do that, he broke off the marriage. The allegations pertaining to physical abuse/sexual harassment pertains to the period when they were talking regarding marriage.

All the material on record also suggest that marriage talks were going on between both the parties, however, whether a criminal trial is warranted in a case where one of the parties refused to going ahead with the wedding is to be answered, at this stage. In the fact of the present case, the screenshots of the chats between the accused and the complainant does not show that the accused was doing or saying anything forcefully. He did try to test the water of the complainant, however, whenever she backed out, the accused never proceeded with the same conversation. Further, it is pertinent to note that the WhatsApp chats provided by the complainant are screenshots and the same are not sufficient to proceed against the accused, considering that both the parties were assessing whether to go ahead with the marriage with each other or not.

The court is mindful of the fact that at the time of framing of charge, only prima facie case is to be seen and mini trial of the case can not be conducted at this stage, but at the same time, liability cannot be fastened upon the accused in cases such as the present one, where the marriage proposal went downhill. No person can be forced to marry someone, and in the present case if the accused denied to marry the complainant, for whatsoever reasons or vice versa, then the communication took place between the two cannot be said to constitute a criminal offence. Clearly, the complainant in the present case, seemed to have wilfully consented to the conversations with the accused, and nothing from the conversations appear to be forceful from the end of the accused. Further, the failure on the part of the complainant to give her phone during the investigation further cautions this Court as charges cannot be made upon the accused based on selective production of screenshots of the WhatsApp chats between the complainant and the accused.

In the light of the above, this court is not inclined to believe that even a prima facie case is made out against the accused Ayan Das u/s 354-A IPC.

Accordingly, accused Ayan Das stands discharged of the offences u/s 354-A IPC.

Original documents, if any, be returned to the rightful owner against proper receipt. Photocopy of the same be kept on record.

File be consigned to record room after due compliance.

Announced in open court today i.e. 22.08.2025.

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JMFC (Manila Court)-02 /Central
THC/Delhi/22.08.2025.**