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**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE ANIL VERMA  
ON THE 6<sup>th</sup> OF DECEMBER, 2023  
CRIMINAL REVISION No. 2267 of 2023**

**BETWEEN:-**

**DILAWAR KHAN S/O NIYAZ MOHAMMED KHAN, AGED  
ABOUT 42 YEARS, R/O JYOTI NAGAR, BISTAN ROAD,  
KHARGONE (MADHYA PRADESH)**

**.....APPLICANT**

**(BY SHRI KULDEEP BHARGAVA - ADVOCATE)**

**AND**

**THE STATE OF MADHYA PRADESH STATION HOUSE  
OFFICER THROUGH POLICE STATION MAINGAON,  
DISTT. KHARGONE (MADHYA PRADESH)**

**.....RESPONDENT**

**(BY SMT. VARSHA SINGH THAKUR - GOVT. ADVOCATE)**

*This revision coming on for admission this day, the court passed the  
following:*

**ORDER**

The applicant has preferred this criminal revision under Section 397/401 of Code of Criminal Procedure, 1973 (in short "Cr.P.C.") being aggrieved by the impugned order dated 13/02/2023 passed in S.T.No.15/2023, whereby charges under Section 365/34 and 364(A)/34 of Indian Penal Code, 1860 (in short "IPC") have been framed against the applicant.

2. The brief facts of the case are that present applicant along with other co-accused persons hatched a criminal conspiracy of kidnapping of one Akshay Mahajan. On 16/08/2022 at about 10:30 pm, other co-accused persons kidnapped Akshay Mahajan and demanded ransom of Rs.50 Lakhs from him

and his family members. Allegedly, present applicant had provided his vehicle for commission of the aforesaid offence. Accordingly, offence has been registered and after investigation charge sheet has been filed in the matter and charges have been framed against the present applicant.

3. Learned counsel for the applicant submits that the trial committed material irregularity and illegality in not considering the fact that essential ingredients of Section 364(A) of IPC are missing and version given in the FIR is contrary to the statement of victim. The model of the car, which was allegedly used in the crime is mentioned different in the FIR and the prosecution story. No ransom was demanded or paid in the instant case, therefore, the trial Court has committed grave error in framing the charges against the applicant under Section 365/34 and 364(A)/34 of IPC. Hence, he prays that impugned order of framing charges against the applicant be set aside.

4. *Per contra*, learned counsel for the respondent / State opposes the revision and prays for its rejection by submitting that the trial Court on the basis of *prima facie* evidence available on record rightly framed charges against the applicant, therefore, no interference is required.

5. Heard learned counsel for both the parties at length and perused the record.

6. From perusal of the FIR, statements of the prosecution witnesses recorded under Section 161 of Cr.P.C., memorandum given by the accused under Section 27 of the Indian Evidence Act and other documents available on record, it appears that victim persons namely Aashay and Ajay both of them have deposed in their statement under Section 161 of Cr.P.C. that they were kidnapped by the accused persons with an intention to be secretly and

wrongfully confined them. Both the victims were kept in a car and the police was chasing the said car, therefore, accused persons left them nearby the Balwada. It is notable that since the police was chasing the vehicle, therefore, they could not contact the parents of the abducted persons for demand of ransom. The chat between the applicant / accused is also available on record, which is sufficient to establish the involvement of applicant in kidnapping and demand of ransom. Named FIR has been lodged against the applicant and other co-accused persons. Present applicant is the registered owner of the said vehicle. Vehicle number is categorically mentioned by the several witnesses in their statements recorded under Section 161 of Cr.P.C., therefore, it appears that *prima facie* cogent evidence is available on record against the applicant, which is sufficient for framing of charges against the applicant.

7. Hon'ble the apex Court in the case of **Amit Kapoor Vs. Ramesh Chander and Another** reported in (2012) 9 SCC 460, has laid down that "*at the initial stage of framing of a charge, the Court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. It is further held that all that the Court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not and the final test of guilt is not to be applied at that stage.*"

8. On the basis of the aforesaid analysis and the law laid down by the Hon'ble apex Court, I am of the considered view that no illegality or irregularity has been committed by the trial Court while framing the aforesaid charges against the applicant.

9. Accordingly, the revision is liable to be and is hereby dismissed.

Certified copy as per rules.

**(ANIL VERMA)  
JUDGE**

Tej

