

**Usuf Ali Vs. State of Rajasthan**

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**SooperKanoon Citation :** [sooperkanoon.com/765262](http://sooperkanoon.com/765262)

**Court :** Rajasthan

**Decided On :** Jan-16-1987

**Reported in :** 1987(1)WLN204

**Judge :** Navin Chandra Sharma, J.

**Appeal No. :** S.B. Cr. Revision Petition No. 2 of 1983

**Appellant :** Usuf Ali

**Respondent :** State of Rajasthan

**Disposition :** Petition dismissed

**Judgement :**

**Navin Chandra Sharma, J.**

1. The material on record before the learned Addl. Sessions Judge No. 2 Kota, was that on the night intervening 2nd and 3rd July, 1982 at about 2.30 a.m. while Mst. Shamim, was sleeping in her house, the petitioner Yusuf Ali entered into the house of Mst. Shamim, caught hold the breast of Mst. Shamim and opened the lace of her Salwar, she was awakened and she raised the cry where-upon her brother and other members of family were also awakened and tried to catch hold the accused petitioner Yusuf Ali, but escaped. On this material appearing from the documents furnished by the police along with its report under Section 173 Cr.P.C.

the learned Addl. Sessions Judge No. 2, Kota framed the charges against the accused petitioner for the offences under Sections 456 and 376 read with Section 511 I.P.C.

2. The only controversy is that according to the accused-petitioner, the material before the learned Addl. Sessions Judge No. 2, Kota, only showed that the accused petitioner used criminal force on Mst. Shamim, intending to out-rage or knowing it to be likely that he will thereby out-rage her modesty and thus, charges under Sections 456 and 354 I.P.C. only should have been framed against the accused petitioner and not charges under Section 376 read with Section 511 I.P.C.

3. It is well settled that the standard of test, proof and judgment, which are to be applied finally before finding the accused petitioner guilty or otherwise are not exactly to be applied at the stage of framing charge. At that stage even a very strong suspicion founded upon material leads the trial court to form a presumptive opinion as to the existence of factual ingredients constituting the offence alleged and it may justify the framing of the charge on such strong suspicion. Even if the scales of pan are even, the order which should be made would be of framing the charge alleged by the prosecution. It is clear that it was dead hour of night when all family members including Mst. Shamim were sleeping, the petitioner entered into the house of prosecutrix Mst. Shamim and caught hold of her breast and even opened the lace of her Salwar which she was wearing; On these facts and circumstances of the case, the learned Addl. Sessions Judge, No. 2, Kota, did not commit any illegality in framing a charge under Section 376 read with Section 511 I.P.C. along with the charge under Section 456 I.P.C.

4. In the result, I see no force in this revision and the same is dismissed.