

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **Crl.M.C. 2749/2007**

Date of decision : 15.05.2008

BRAHMJEET PETITIONER

! Through : Mr. I.S. Kapoor, Advocate.

Versus

\$ THE STATE RESPONDENT

^ Through : Mr. O.P. Saxena, APP for the State.

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CORAM:
HON'BLE MS. JUSTICE ARUNA SURESH

- (1) Whether reporters of local paper may be allowed to see the judgment?
- (2) To be referred to the reporter or not?
- (3) Whether the judgment should be reported in the Digest ?

ARUNA SURESH, J. (Oral)

1. A complaint case was filed on 28th April, 1998 on which directions were issued to the police to file its report under Section 156(3) Cr.P.C. Consequently, FIR under Section 376 Indian Penal Code (IPC) was registered against the Petitioner on 14th August, 1998.

After investigation of the case a final report was filed under Section 173 Cr.P.C.. The Learned Metropolitan Magistrate thereafter conducted inquiry and statement of the prosecutrix was recorded on 24.07.2006 and thereafter the Petitioner was summoned vide order dated 2.04.2007. Against this summoning order, the Petitioner filed a revision petition which was dismissed on 22.5.2007.

2. Allegations of the complainant in the complaint against the Petitioner are that he was working as a Sub-Inspector in Delhi Police and was posted at Police Station Jaffarpur Kalan. On the basis of a complaint made by one Rajender, case FIR No.32/98 was registered under Section 380/447 IPC at Police Station Jaffarpur Kalan against the sons of the prosecutrix, Indra Wati, namely, Sanjeet and Tejapl that some jewellery has been stolen from his house. According to the complainant on 20.04.1998 she was taken away by the Petitioner in a police jeep to the Police Station where she was raped 3/4 times by the Petitioner who was released at about 3.00 A.M. in the night. Prosecutrix informed the higher authorities on 22.04.1998 about the

conduct of the Petitioner but to no effect. She filed a complaint in the court of Shri V.K. Khanna, learned Metropolitan Magistrate on 28.04.1998 who directed DCP South West to get the case investigated and file a report under Section 173 Cr.P.C.. A case was registered under Section 376 IPC vide FIR No.101/98 and an inquiry was conducted by Mr. Alok Kumar, IPS, (ACP, South West) concerning allegations of the prosecutrix as stated in the complaint. He submitted his report and exonerated the Petitioner of the allegations levelled by the prosecutrix in her complaint. With the result court hold its own inquiry and the statement of the prosecutrix was recorded and thereafter the Petitioner was summoned.

3. Now, by way of this Petition, the Petitioner has challenged the summoning order and has sought quashing of the said order of summoning and also quashing of the proceedings pending in Complaint Case No.161/1/28.04.1998, titled '**Indrawati Vs. SI Brahmjit Singh**'.

4. The grounds on which the quashing of the

summoning order are sought are all defences which are available to the Petitioner during the trial of the case. They could not be looked into by this court at this stage, specially when the court has to only assess the prima facie evidence produced before it for summoning the Petitioner. There are serious allegations of rape against the Petitioner who happened to be a police officer. Whether these allegation are a counter blast to the registration of the FIR and investigation by the Petitioner of the complaint of Mr. Rajender for alleged theft of his jewellery or is a pressure tactics adopted by the prosecutrix to save her sons and not to permit the Petitioner to proceed with the investigation in the said FIR No.32/98, under Section 380/447 IPC, Police Station Jaffar Pur Kalan are all factors which could not have been considered by the trial court at the time of passing of the impugned order dated 02.04.2007.

5. The learned trial court was right in his approach when he summoned the Petitioner for an offence punishable under Section 376 IPC on the basis of the statement of the prosecutrix itself. It was not required for the court to collect corroborative evidence at that

stage. Law is well settled that in a case under Section 376 IPC even a conviction can be based only on the sole statement of the prosecutrix if it inspire confidence in the mind of the court.

6. Hence, I do not find any illegality or irregularity in the order of the learned Metropolitan Magistrate dated 2.4.2007. A criminal revision was filed against the order of summoning being Criminal Revision No.81/07 which was also dismissed. The fact remains that no revision could have been filed against the order of summoning. Be that as it may, I as observed above the order of the trial court is just and proper and I do not find any reason to interfere in the same. Hence, petition is hereby dismissed being without any merits.

**ARUNA SURESH
(JUDGE)**

**May 15, 2008
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