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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 471/2013

SHARDA CHAUDHARY

..... Petitioner

Through: None

versus

STATE & ORS

..... Respondents

Through: Mr.Sudershan Joon, APP for the State  
with SI Om Prakash PS Badarpur  
M.Hasibuddin, Adv. for R-2 & R-3

**CORAM:**

**HON'BLE MS. JUSTICE PRATIBHA RANI**

**ORDER**

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**16.02.2016**

1. None has appeared on behalf of the petitioner despite passover since morning.
2. The petitioner has not been appearing in this case for last three dates of hearing.
3. On the last date of hearing also submissions were made on behalf of the State and respondent Nos.2 and 3 for dismissal of the revision petition and thereafter the matter was kept for today.
4. Even today the petitioner has failed to appear.
5. The petitioner has filed this revision petition impugning the order dated 9<sup>th</sup> May, 2013 whereby the learned ASJ formed an opinion that prima facie no offence under Section 313 IPC is made out against any of the accused. In case FIR No.1033/2005 under Sections 325/34 IPC registered at

PS Badarpur, Delhi, the respondents/accused were sent to face trial for the offence punishable under Sections 341/325/34 IPC. When the complainant was examined by learned Magistrate, on the basis of her examination learned Magistrate was of the opinion that from her testimony offence punishable under Section 313 IPC is made out and the same being triable by the Court of Session, committed the case to the Court of Session.

6. After hearing learned counsel for the parties and extracting relevant portion of the testimony of the complainant (PW-2), learned ASJ discharged the accused persons for the offence punishable under Section 313 IPC for the following reasons:-

*“Ld. MM while coming to the conclusion that prima facie offence punishable under Section 313 IPC was made out against the accused referred a case titled as “Tulsi Devi and Others Vs. State of U.P.”, 1996 Crl.L.J. 940. As noted by the High Court, the accused persons in that case assaulted Smt. Harma Devi, with an intention to murder her, they kicked her causing abortion to her. She was carrying fetus of about 4-5 months. Pregnancy of 4-5 months becomes more exposed than pregnancy of 2-3 months. Considering all this as well as the fact that there is no allegation against the accused that they had knowledge about the pregnancy of PW-2 or had any intention to cause miscarriage to her, no offence punishable under Section 313 IPC is made out, against any of accused. Rest of offences alleged against the accused persons are triable by the Magistrate.”*

7. The reasons given by the learned ASJ while forming an opinion that prima face case under Section 313 IPC is not made out, statement of the complainant (PW-2) has been duly considered and observed that necessary ingredients to charge for the offence punishable u/s 313 IPC are not satisfied.

8. Thus, the order passed by learned ASJ cannot be termed to be illegal or perverse so as to warrant interference by this Court in exercise of revisional jurisdiction.

9. Revision petition is dismissed.

**PRATIBHA RANI, J.**

**FEBRUARY 16, 2016**

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