

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Decided on: 18th November, 2016

+ **CRL.REV.P. 432/2016 & CrI.M.B. 1173/2016**

MD. AYUB

..... Petitioner

Represented by: Mr. Mrinal Madhav, Mr.
Kaushikesh Kumar, Mr. Shashi
Bhushan Thakur, Advs.

Versus

THE STATE (GOVT OF NCT OF DELHI) & ANR..... Respondent

Represented by: Ms. Rajni Gupta, APP with
Insp. Virender Singh Punia,
ASI Ram Briksh PS Kalkaji
Metro.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By the present petition, the petitioner seeks setting aside of the order dated 31st May, 2016 passed by the learned Additional Sessions Judge upholding the impugned judgment dated 19th February, 2015 passed by the learned Metropolitan Magistrate and order on sentence of the even date directing him to undergo rigorous imprisonment for a period of one year for offence punishable under Section 354 IPC.

2. Process of law was set into motion on 2nd February, 2013 on receipt of DD Entry 26 by PW-3 ASI Ram Briksh. On reaching Central Secretariat Metro Station, he met PW-1, the prosecutrix who handed over a written

complaint Ex. PW-1/A dated 2nd February, 2013 wherein she stated that while she was travelling with her friend PW-2 in metro from Govindpuri Metro station to Dwarka Sector 12 metro station, when she was getting off at Central Secretariat metro station around 8:20 P.M., her breast was pressed by a person whose name was later revealed as Mohd. Ayub. On the basis of this, FIR bearing number 09/2013 was registered under Section 354 IPC at PS Kalkaji Mandir Metro. Mohd. Ayub was arrested vide arrest memo Ex. PW- 1/B

3. PW-1, the prosecutrix deposed in the Court that she was a student of third year in Lady Sri Ram College, Delhi University. On 2nd February, 2013, she along with her friend PW-2 had boarded the metro from Govind Puri metro station for going to her house in Dwarka. Around 8:20 P.M., when they were deboarding the metro, one person forcefully grabbed her left breast. She held the hand of that person and slapped him twice. During her cross examination, she denied the suggestion that she lost her balance while getting down and that was how she touched the appellant. She also denied the suggestion that the appellant had only tried to prevent her from falling. This version of PW-1 was corroborated by her friend PW-2 who was an eye witness.

4. The defence taken by the appellant in his statement under Section 313 Cr.P.C. is that while he was trying to get into the Metro coach somebody from the crowd pushed him and he accidentally fell upon the prosecutrix and touched her body. He further stated that he did not intentionally touch her. However, the suggestion put to PW-1 prosecutrix and her friend PW-2 was that the prosecutrix lost her balance while getting down and that was how the appellant touched her. It was further suggested that the appellant had

only tried to prevent her from falling.

5. Considering the evidence on record, the version of the prosecutrix duly corroborated by that of PW-2 and that the FIR was promptly registered, I find no infirmity in the judgment of conviction of the appellant for offence punishable under Section 354 IPC. The petitioner has already undergone nearly 6 months imprisonment. The date of incident is 2nd February, 2013, when no minimum sentence was prescribed for offence punishable under Section 354 IPC. Considering the facts of the case, it is directed that the petitioner be released on the period already undergone. Revision Petition and application are disposed of accordingly.

6. Superintendent Tihar Jail is directed to release the appellant forthwith if not required in any other case. Order dasti.

7. TCR be returned.

(MUKTA GUPTA)
JUDGE

NOVEMBER 18, 2016
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