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

DECIDED ON : 30th AUGUST, 2016

+ **CRL.M.C.2498/2016 & CRL.M.A.No.10739/2016**

SIDHARTH CHOUDHARY Appellant

Through : Mr.Niraj Gupta, Advocate.
versus

STATE & ANR. Respondents

Through : Mr.Kamal K.Ghei, APP.

CORAM:
HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

1. Present petition has been filed by the petitioner for quashing of the FIR No.120/2016 registered under Section 376 IPC at PS N.F.Colony. Status report is on record.
2. I have heard the learned counsel for the parties and have examined the file. Petitioner's counsel urged that no offence under Section 376 IPC is made out as physical relations (if any) with the complainant were consensual. He further urged that the Courts at Delhi have no jurisdiction to entertain the complainant's complaint as the alleged incident of rape had taken place in Mussoorie.
3. Perusal of the file reveals that upon completion of investigation, a charge-sheet has already been filed against the petitioner for commission of offence under Section 376 IPC. The case has since been committed to the

Court of Sessions. In the complaint, the complainant levelled specific allegations against the petitioner for establishing physical relationship with her at first instance at Mussoorie forcibly. When the complainant objected to it, the petitioner allegedly promised to marry her. It is further alleged that subsequently also the petitioner established physical relations with the complainant several times, lastly they had physical relationship on 02.01.2016. In 164 Cr.P.C. statement, the victim has reiterated her version given to the police. Statement of PW-Vijay Pathak has been recorded who informed that the petitioner had disclosed his intention to marry the victim. During investigation, it is informed that the petitioner and the victim had gone to Mussoorie on 31.12.2015 and had stayed in a hotel.

4. Both the parties live in Delhi. They used to work in the same company where friendship developed between the two. Allegedly, physical relations took place between them on the pretext to perform marriage. It is not the prosecution's case that all the incidents of physical relationship took place beyond Delhi. The complainant in her statements to the police / Court disclosed that after their first physical relationship in Mussoorie on 31.03.2015, they continued to have physical relationship and lastly it was on 02.01.2016. The petitioner allegedly called the victim's parents to perform marriage at Delhi. Under these circumstances, it cannot be inferred at this stage that the Courts at Delhi have no jurisdiction to entertain the instant case. The trial is at its initial stage.

5. Since there are specific and definite allegations against the petitioner to have established physical relationship with the prosecutrix on the false pretext of marriage, the FIR in question cannot be quashed. The allegations cannot be brushed aside or discarded at this stage.

6. The petition lacks in merits and it is dismissed. Pending application also stands disposed of.

7. Observations in the order would have no impact on the merits of the case.

(S.P.GARG)
JUDGE

AUGUST 30, 2016 / *tr*

