

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

% **Decided on: 21st September, 2016**

+ **CRL.REV.P. 778/2014**

ISTIQUE & ANR.

..... Petitioner

Represented by: Mr. A.K. Padhy, Adv.

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Represented by: Mr. Hirein Sharma, APP with
Insp. Sarita, PS Seelampur.
Mr. Jai Gopal Garg, Adv. for
R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By the present petition, the petitioners challenge the order dated 30th September, 2014 directing framing of charge against the petitioners Ishtiyak and Majid for offences punishable under Sections 506(II) read with 120-B IPC and 366 read with 109 IPC.

2. Learned counsel for the petitioners states that the petitioners are social activists and respectable people. In the statement under Section 161 Cr.P.C. the prosecutrix has not levelled any allegations against the petitioners. Even in her statement to the doctor she made no allegations against the petitioners. After remaining in the custody of her mother for three days, she gave a statement before NGO on the basis of which the petitioners were implicated. It is stated that there is no allegations whatsoever that Ishtiyak or Majid were parties to the kidnapping or abduction of the prosecutrix or getting her

forcefully married against her Will to the main accused or seducing her to illicit intercourse or threaten her. The prosecutrix left her house of her own free will, due to her love affair for the last four years with Abid without any compulsion. CCTV footage of the camera and the pen drive taken in possession disproves her statement under Section 164 Cr.P.C.

3. FIR No.232/2014 under Sections 363/366 IPC was registered on the complaint of mother of the prosecutrix who stated that her daughter aged 17 years was missing since 10 O'clock. On 12th April, 2014 the prosecutrix was produced in the police station Seelampur by the mother of Abid, the main accused. Statement of the prosecutrix was recorded under Section 161 Cr.P.C. and she was medically examined. Subsequently on 15th April, 2014 the prosecutrix levelled allegations of sexual assault and forced marriage. Thus, her statement under Section 164 Cr.P.C. was recorded which implicated the petitioners.

4. In the statement under Section 164 Cr.P.C. the prosecutrix has stated that she developed friendship with one Abid and they exchanged their numbers. One or two times she went with Abid and roamed around with him without telling parents. On 8th April, 2014 at the instance and asking of Abid, she took from her house cash and jewellery and left to meet Abid. Both of them went around Shalimar Garden. At 1.00 AM in the night they took a room in Mayur Guest House and there they developed physical relations. Thereafter they left the place and in the evening they went to G.T.B. Hospital, ate in the canteen and stayed at the reception of the hospital itself. On the next day morning they went to EDM Mall and when Abid switched on his mobile phone, he received a message of one Tyagi that in case of need, he can call him. Abid called Tyagi who informed that a

complaint had been lodged by the family members of the prosecutrix so they left the place. On 11th April, 2013 they went to the house of sister of Abid where Ishtiyak who was president of the area came and threatened her and made her write a letter in Hindi. He had brought a rough written letter. In the letter it was stated that the prosecutrix had left the house of her own free will. Thereafter Abid (uncle) made her writing a letter and post it. Abid's sister dressed her in a burqa and Abid's mother, sister and brother-in-law took her to Nizamuddin Dargah and got entered that she was born in the year 1996 whereas her date of birth was of 1997. They got performed Nikah between Abid and the prosecutrix. Ishtiyak took photographs of the marriage. The papers of Nikah were signed by Abid's brother-in-law. Thereafter they went to Abid's house and she handed over cash and gold to Abid's mother and sister. They were taken to the office of Pradhan where a camera was fitted and a number of questions were asked from her. From there Abid's uncle Majid and Ishtiyak Pradhan took her to police station.

5. From the allegations of the prosecutrix against the petitioners under Section 164 Cr.P.C. the charge framed for offences punishable under Section 506(II) read with 120B and 366 read with 120B IPC cannot be said to be unwarranted or illegal. The prosecutrix has already stated that she was made to say certain facts in front of the camera and thus the contents of the CD relied by the petitioners are irrelevant at this stage.

6. Petition is dismissed.

7. Trial Court record be sent back forthwith.

(MUKTA GUPTA)
JUDGE

SEPTEMBER 21, 2016 /'vkm'