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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 3074/2015 and Crl. M.A. No. 18818/2015

SEEMA (MINOR) REPRESENTED BY: HER

NATURAL GUARDIAN / FATEHER VIJAY PAL Petitioner

Represented by: Mr. Prem Chand Ganganiya,
Adv.

versus

THE STATE (GOVT OF NCT OF DELHI) & ORS Respondent

Represented by: Mr. R.S.Kundu, ASC with IO
Amit Verma, PS Gokalpuri.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

28.07.2016

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1. By this petition the petitioner has sought the following reliefs:

“a) issue the writ of mandamus or certiorari or any other writ thereby issuing directions to the respondent No.1 and 2 to change the investigation agency and to handover the case to the Crime Branch/ CBI for fresh and proper investigation.

b) issue directions to initiate appropriate necessary legal action against the respondent No. 3 to 5 for their illegal acts.

c) the appropriate criminal proceedings be initiated against the respondent No.5 for the acts in contravention of the provisions of the Indian Penal Code, Criminal Procedure Code and other law applicable in the present case as per the law of the land in order to protect the life and property of the petitioner and also to protect the fairness of legal system.

d) any other relief which this Hon'ble Court may deem fit and proper passed in favour of the petitioner, in the interest of justice.”

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2. The first submission of learned counsel for the petitioner while addressing arguments was that the prosecutrix named three accused persons, however no action has been taken against anyone else except Harish.

3. This Court posed a query to learned counsel whether the prosecutrix stands by her statement made before the learned Metropolitan Magistrate recorded under Section 164 Cr.P.C., which learned counsel accepts.

4. A perusal of the statement under Section 164 Cr.P.C. would reveal that the prosecutrix only names Harish as the person who raped her and that he was accompanied by one friend who prepared the video. Three accused are not named in the statement recorded before the learned Metropolitan Magistrate as well. This fact has also not been stated on oath in the present petition.

5. Learned Additional Standing Counsel for the State submits that Harish was arrested and after charge-sheet was filed bail was granted to him by the learned Trial Court. As regards second person whose name, the prosecutrix did not know, portrait of the said person was got prepared, however during investigation no person with the same facial expression was found to be associated with Harish either as his cousin or friend or whatsoever. Even in his disclosure statement Harish did not state that he was accompanied by someone else. The investigation is still going on and a supplementary charge-sheet will be filed as and when the second accused is arrested.

6. Considering the fact that a charge-sheet on the statement of the prosecutrix which is in accordance with the statement of the prosecutrix made before the learned Magistrate under Section 164 Cr.P.C. has been

filed, I find no reason to transfer the investigation to Crime Branch, or to CBI or to initiate action against respondent Nos.3 to 5.

7. Present petition and application are dismissed.

MUKTA GUPTA, J.

JULY 28, 2016

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