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

+ CRL.L.P. 100/2017 and CRL.M.A. 2961/2017

INDERJEET KAUR

..... Petitioner

Through: Mr. Asim, Advocate.

versus

STATE & ANR.

..... Respondents

Through: Ms. Radhika Kolluru, APP along with
SI Sandeep, PS-Sagarpur, for the
State.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

20.02.2017

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The petitioner has preferred the present leave petition to seek leave to appeal against the judgment dated 30.11.2016 rendered by the learned Additional Sessions Judge/ Special Fast Track Court, Patiala House Courts, New Delhi in SC No.9048/2016 arising out of FIR No.65/2014 under Section 376(2)(n)/ 420/ 506 IPC registered at PS – Sagarpur. The petitioner is the prosecutrix in this case and is aggrieved by the acquittal of the respondent/ accused.

Learned counsel for the petitioner has submitted that since the accused is himself working in the Delhi Police, the investigation and prosecution of the case was not pursued properly by the police and by the

Prosecutor. He submits that the delay in lodging the complaint making allegation of rape was on account of the fear entertained by the prosecutrix that her husband may divorce her and also in view of the ignominy suffered by the victim of the said crime.

Learned counsel for the petitioner further submits that during the course of investigation, only the call detail records of the accused were collected, including with regard to the location of the towers to which phone of the accused was connected receiving the signals, but no such investigation was conducted in respect of the mobile phones of the prosecutrix and her husband.

I have perused the impugned judgment. The discussion in the judgment, whereupon the findings have been returned, is contained in paragraphs 30 to 47 thereof. In the present case, though the prosecutrix alleged rape on 23.03.2013, the FIR was lodged initially only on 20.01.2014, and that too, only in respect of offence of cheating. It was only subsequently on 26.02.2014 that, for the first time, the prosecutrix alleged rape against the accused.

Though the prosecutrix claimed that the accused had prepared her video and taken photographs at the time of commission of the offence, no recovery of either the video or the photographs was made.

The location of the mobile phone of the accused at the relevant time was found to be at a distance of about 3 to 4 Kilometres from the residence of the prosecutrix.

The Trial Court has also observed that the prosecutrix, who examined herself as PW-3, had made improvements in her statements. The Trial Court has also not believed the claim made by the prosecutrix that she and her

husband had advanced money to the accused since their source of income for such amounts was not disclosed.

Though in such like cases some amount of delay may be overlooked on account of the aforesaid considerations cited by learned counsel for the petitioner, the allegation of rape cannot be believed unless there is some corroborative material brought on record. In the present case, on account of the delay in lodging the FIR, there was no medical evidence to substantiate the allegations of rape. If the petitioner, who was aggrieved by the manner in which the case was investigated, and prosecuted, on account of the accused belonging to the police force, the petitioner should have taken remedial steps at the initial stage itself. It is not proper for the petitioner to raise the said issue at this stage after the matter has been decided by the Trial Court after a full fledged trial.

Since the view taken by the Trial Court after appreciation of evidence is a plausible view, I am not inclined to grant leave in this matter.

Dismissed.

VIPIN SANGHI, J

FEBRUARY 20, 2017

B.S. Rohella