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

DECIDED ON : 23rd JANUARY, 2017

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CRL.M.C. 2996/2016

MRS MAMTA

..... Petitioner

Through : Ms.Manika Tripathy, Advocate.

versus

STATE OF DELHI & ANR.

..... Respondents

Through : Mr.Kamal K.Ghei, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

1. Present petition under Section 482 Cr.P.C. has been preferred by the petitioner to challenge the legality and correctness of an order dated 04.12.2015 of learned Addl. Sessions Judge in Cr.No.01/14 whereby order dated 18.12.2013 of the Court below was upheld.

2. I have heard the learned counsel for the petitioner and have examined the file. The petitioner had lodged an FIR No.259/13 under Sections 376/506 IPC against respondent No.2 alleging that he had committed rape upon her on 24.05.2008. Subsequently, cancellation report filed by the Investigation Agency was accepted by the learned Metropolitan Magistrate by an order dated 18.12.2013. The prosecutrix filed Cr.No.01/14

to challenge the said order and it was dismissed. Being aggrieved and dissatisfied, the instant petition has been preferred.

3. Record reveals that the prosecutrix had visited the Police Station Preet Vihar on 12.08.2013 along with her brother and had informed that she had not made any complaint. On 13.08.2013, she recorded her 164 Cr.P.C. statement before the learned Metropolitan Magistrate. After recording satisfaction that the victim was making her statement voluntarily without any fear or pressure, learned Metropolitan Magistrate recorded her 164 Cr.P.C. statement. In the said statement, the prosecutrix denied allegations of rape against the respondent No.2. She expressed ignorance as to who had lodged complaint in her name. Subsequent to that, cancellation report was filed. The Trial Court issued notice to the complainant; she appeared before the Court and made a similar statement on 28.09.2013 in the presence of her brother and counsel. She also stated so in writing. Considering these facts and circumstances, the learned Addl. Chief Metropolitan Magistrate accepted the cancellation report vide order dated 18.12.2013.

4. Subsequently, the victim preferred the revision petition without impleading respondent No.2 as a party. The Revisional Court by an order dated 28.07.2015 ordered to implead the respondent No.2 as a party. The petitioner was directed to file memo of parties. Despite various opportunities granted, the petitioner failed to take necessary steps. On the day when the case was listed for hearing i.e. on 19.10.2015 the petitioner appeared along with her husband. Sh.Gautam Pal, her advocate, also appeared. The prosecutrix declined to file any amended memo of parties.

She further stated that her counsel did not wish to argue further in the matter.

5. Apparently, the petitioner did not pursue the matter. She has failed to explain as to what had led her to make her statement under Section 164 Cr.P.C. exonerating the respondent No.2. She remained mum for number of years and has preferred to file the present petition after an inordinate delay.

6. I find no irregularity and illegality in the impugned order and the petition is dismissed.

7. Copy of the order be transmitted to the Courts below for information.

(S.P.GARG)
JUDGE

JANUARY 23, 2017 / tr