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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 520/2017**

VIRENDER KUMAR Petitioner
Through: Ms. Aishwarya Rao, Adv.

Versus

STATE Respondent
Through: Ms. Meenakshi Dahiya, APP for
State.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **20.07.2017**

Aggrieved by the framing of charge under Sections 364-A/34 IPC by the trial court petitioner has preferred this revision petition.

It is submitted that victim/prosecutrix has made material improvements in her statement under Section 164 Cr.P.C., vis-a-vis, her statement under Section 161 Cr.P.C. Accordingly, version of the victim has to be disbelieved in view of the material improvements/contradictions. Learned counsel for the petitioner submits that in her statement under Section 164 Cr.P.C., victim has alleged that petitioner was having a gun; however in her statement under Section 161 Cr.P.C. she has not whispered a word about the gun.

I do not find any force in the contention of the learned counsel for the petitioner. Veracity of the version of the victim/prosecutrix has to be tested during the trial. At the stage of framing of charge, statements of the witnesses have to be accepted as it is to form a, prima facie, view. Therefore, statements of the witnesses cannot be discarded and/or disbelieved at that stage. In her statement under Section 161 Cr.P.C., victim has categorically stated that she is 16 years old and studying in 9th class. Her neighbour Ajay Singh became her friend. On 29th September, 2014, Ajay Singh asked her to meet him near Heera Sweets, Jwala Nagar Chowk in the morning. Accordingly, on 30th September, 2014, she reached there. Ajay Singh along with his friend-Virender Kumar (petitioner) came there and thereafter they forced her to sit in an auto rickshaw. They snatched the mobile phone from her. They told her that they would demand ₹5 lacs from her father for her release. They threatened her that in case she raised any protest they would kill her by throttling her. Thereafter, petitioner rang up her father and demanded ₹5 lacs. Similar is her version in her statement under Section 164 Cr.P.C. except that she has said that petitioner showed her a gun and asked her to sit in the auto. However, she has stated in her statement under Section 161 Cr.P.C. that petitioner and Ajay Singh had

forced her to sit in the auto.

As stated earlier, the veracity of the version of the prosecutrix/ victim has to be tested during the trial and merely because victim has introduced a new fact that petitioner was carrying a gun would not be sufficient to disbelieve her at the stage of framing of charge more so, when she has stated in her statement under Section 161 Cr.P.C. that she was forced to sit in the auto rickshaw by the petitioner and the co-accused.

Revision petition is dismissed. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

JULY 20, 2017

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