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

+ **W.P.(CRL) 3283/2016**

RITIKA

..... Petitioner

Through: Mr. Sunil Nair, Advocate

versus

STATE & ORS

..... Respondent

Through: Ms. Kamna Vohra, ASC

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

11.01.2017

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The status report has been filed and perused. The petitioner has preferred the present writ petition being dissatisfied with the manner in which the investigation has been done in respect of her complaint which has led to the registration of FIR No.565/2015 u/s 326/342/376D/506/120B IPC dated 06.11.2015 at PS Mundka.

The grievance of the petitioner is that despite registration of the FIR as early as on 06.11.2015, hardly any substantive investigation has been done and no charge sheet has been filed till date. According to the petitioner, the I.O. in the case and the officers of PS Mundka are mixed up with the accused.

The allegations contained in the complaint which has led to the registration of the FIR are that while she was in her office and her employer/ boss was away, the accused drugged her by giving her a thumbs up mixing it up with some intoxicant. When she gained conscious, she found that she had been disrobed and the accused Hemant Jain was also naked. The co-accused lady had allegedly taken her photographs using her camera. She was allegedly threatened by the accused that her photographs and video shall be uploaded on the internet if she disclosed the offence.

It appears that the petitioner disclosed the date of incident as 27.05.2015. However, subsequently, she sought correction of the said date and disclosed that the incident occurred on 25.05.2015. The status report seeks to emphasise the aspect that the petitioner had earlier disclosed the date of the incident as 27.05.2015 and only after the accused applied for anticipatory bail disclosing that he was not in the city on the said date and was away to Kashmir, that the petitioner sought to change the date of the incident as 25.05.2015. As rightly observed by the trial court while dealing with the application of the accused, the said discrepancy in the date of the incident would be a matter of trial.

It is not stated in the status report and, therefore, it was queried by the Court whether the mobile instruments of the accused persons were seized and sent for their FSL examination to ascertain whether any photographs/ video of the prosecutrix were found in them. I am shocked to learn that even this basic investigation was not done by the I.O. concerned. This omission on the part of the I.O., to say the least, is a huge blunder. I do not wish to fathom the reasons for such inaction on the part of the I.O. concerned, which unfortunately are not very difficult to imagine.

In view of the aforesaid, the grievance of the petitioner that she does not have faith in the I.O. appears to be completely justified.

Ms. Vohra has pointed out that another I.O. of the rank of Inspector has been entrusted with the case six days ago.

In my view, the said action which has been taken post the entertainment of the petition is not sufficient to instil confidence either in the petitioner or in this court that the serious allegations made by the petitioner against the accused would be properly and fairly investigated. In these circumstances, I direct the transfer of the investigation in the present case to the Crime Branch of Delhi Police forthwith.

The concerned DCP shall entrust the case to a senior and competent officer for conduct of further investigation in the matter.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

JANUARY 11, 2017

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