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

+ CRL.M.C. 4415/2017

RAJESH KUMAR VERMA

..... Petitioner

Through: Mr. Rakesh Mittal and Mr. Rajesh
Kumar Verma, Advs.

versus

STATE GOVT OF NCT OF DELHI & ORS Respondents

Through: Mr. M.S. Oberoi, APP with SI Ashok
Kumar, P.S. Kashmere Gate.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **31.10.2017**

On the complaint of Ms. Tushti Chopra, daughter of Sh. Dinesh Kumar Chopra, FIR No. 58/2013 under Section 354D IPC was registered against the petitioner at police station Kashmeri Gate. After investigation charge-sheet was filed. Learned Metropolitan Magistrate framed the charge against the petitioner under Section 354D IPC on 4th August, 2014. Petitioner filed criminal revision petition against the said order before the Additional Sessions Judge-07, Central District, Delhi which has been dismissed vide order dated 1st July, 2014.

That is how the petitioner is before this Court by way of present petition under Section 482 of the Code of Criminal Procedure, 1973, which has been filed on 12th October, 2017, that is, after more than three years.

Trial is underway.

Learned counsel for the petitioner has vehemently contended that FIR is based on false allegations, inasmuch as, ingredients of offence under Section 354D IPC are not attracted. It is a trite law that at the time of framing of charge only a, *prima facie*, view has to be formed. The statements of witnesses under Section 161 Cr.P.C. and other material collected during the investigation have to be taken on its face value. I have perused the statement of complainant who has categorically stated that on 17th March, 2013 she was returning from Chandigarh by bus. Petitioner also boarded the same bus. Petitioner had misbehaved with her earlier also and a complaint in this regard was made by her. At ISBT when she de-boarded the bus at about 10 pm petitioner had already de-boarded the bus, however, he hid himself and was watching her. Complainant did not go to that side and went to the opposite direction in order to avoid him. However, petitioner came towards her. She raised alarm, when police officials reached there and recorded her statement. She again reiterated that petitioner had misbehaved with her earlier also. Petitioner insisted that she should talk to him, despite her objections.

This statement of complainant cannot be ignored and brushed aside

merely because petitioner alleges it to be false. The veracity of version of complainant has to be tested during the trial. Her statement cannot be disbelieved at the stage of framing of charge. Trial court as well as revisional court have taken note of these facts and held that a, prima facie, case is made out against the petitioner.

Section 354D IPC reads as under :-

“Stalking. (1) Any man who—

- (i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or
- (ii) monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking;

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

- (i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or
- (ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or
- (iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.”

Statement of complainant, as contained in the FIR, attracts the ingredients of offence under Section 354D(1)(i) IPC. Her statement discloses strong suspicion of petitioner having committed the offence under the aforesaid provision thereby making out a prima facie case for framing the charge.

Learned counsel for the petitioner has placed reliance on the judgments tiled A.K. Ganju vs. CBI 2014IAD (Delhi) 349, Prashant Bharti vs. State of NCT of Delhi 2013 (2) ACR 1461 and Swapnil and Ors. Vs. State of Madhya Pradesh 2014(2) ACR 1830 (SC). These judgments are in the context of different facts and are of no help to the petitioner.

For the foregoing reasons, the petition is dismissed with costs of ₹10,000/- to be deposited by the petitioner with the Delhi High Court Legal Services Committee within four weeks. In case cost is not deposited, no other petition of the petitioner shall be entertained by the Registry. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

OCTOBER 31, 2017/ga