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

DECIDED ON : JANUARY 11, 2018

+ **CRL.REV.P. 29/2018**

STATE

..... Petitioner

Through : Mr.Ravi Nayak, APP with SI Nishant,
PS Gandhi Nagar.

versus

JAMSHED KHAN @ NANNU

..... Respondent

Through : None.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

Crl.M.A.No.551/2018 (Exemption)

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

CRL.REV.P. 29/2018

1. Present revision petition has been filed by the State to challenge the legality and correctness of an order dated 10.10.2017 of learned Additional Sessions Judge by which the respondent was discharged in case FIR No.387/2016 under Sections 354/354(D)/506/509 IPC. Sections 8 and 12 of the POCSO Act were added later on.
2. I have heard the learned Additional Public Prosecutor and have examined the file. On perusal of the file, it reveals that the present case was registered on the statement of the complainant on 25.08.2016. In

the complaint she leveled certain allegations against the respondent for outraging her modesty. During investigation, the victim recorded her 164 Cr.P.C. statement on 27.08.2016 before the learned Metropolitan Magistrate. In her 164 Cr.P.C. statement, the victim completely exonerated the respondent; she did not level any allegations, whatsoever, against the respondent. She denied if the respondent had outraged her modesty.

3. Taking into consideration 164 Cr.P.C. statement given by the prosecutrix, the Trial Court discharged the respondent. This court finds no illegality or material irregularity in the impugned order. The statement under Section 164 Cr.P.C. was recorded before the learned Metropolitan Magistrate soon after the lodging of the report on 27.08.2016. There are no allegations if the prosecutrix was tutored to make the said statement. The prosecutrix was in the company of her brother. Apparently, she was not under fear or pressure from the respondent to make the statement. Since the prosecutrix has given entirely two conflicting statements i.e. one before the police and the other before the learned Metropolitan Magistrate, there was no sufficient material to proceed against the respondent for commission of the aforesaid offences.

4. The revision petition being unmerited is dismissed in limini.

**S.P.GARG
(JUDGE)**

JANUARY 11, 2018/sa