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

+ CRL.M.C. 2494/2018 & CrI.M.A. 29174/2018, 29175/2018

SHAHIDA BANO

..... Petitioner

Through: Ms. Sunita Arora, Advocate with
Ms. Iyina Grover, Advocate

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Ravi Nayak, APP for State with
ACP Indiravati Rathore, PS Ashok
Vihar, SHO Sharat Chandra & SI
Rakhi, PS Rani Bagh.
Mr. Jatan Singh, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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11.10.2018

The grievances of the petitioner were recorded in the order dated
02.08.2018 as under:-

“The petitioner is the prosecutrix of the criminal case arising out of First Information Report (FIR) no.360/2016 involving offences punishable under Section 376(2)(n), 328, 506, 354A IPC of PS Bharat Nagar in which context she is aggrieved because a compact disc statedly containing audio recording of her conversation with the accused Arun and his mother, Mrs. Raj were handed over by her to the investigating officer (SI Rakhi) during the course of investigation but the same were not made part of the material on which the prosecution has been launched. It is also her grievance that hard copies (print-outs) of certain WhatsApp messages exchanged by the prosecutrix with the accused Arun were also made available to the Investigating Officer but the same have also been unfairly kept out of the material

on which prosecution has been launched. She had moved an application under Section 91 of the Cr. PC before the trial court but the said request was declined by order dated 23.04.2018, which is impugned by the petition at hand.

The State has not filed its reply to the petition. It shall do so before the next date of hearing i.e. 11.10.2018 for which the matter was posted by the order dated 11.07.2018.

The proceedings before the trial court may, in the meanwhile, continue but no final order shall be passed till the next date of hearing.

The Investigating Officer with the Station House Officer and the Assistant Commissioner of Police, Incharge of the Sub-Division shall remain present in court with all the relevant record....”

Sub-Inspector Rakhi, the investigating officer is present in court with Inspector Sharat Chandra, Station House Officer of Police Station Bharat Nagar with ACP Ms. Indiravati. The affidavit of Sub-Inspector Rakhi, sworn on 11.10.2018 has come on record. She has stated that no such material, as was mentioned on the last date of hearing, was ever handed over to her. The SHO of Police Station under directions of the ACP, Sub-Division, who is also present, submits that the case arising of FIR No. 360/2016 shall be subjected to further investigation in exercise of power and jurisdiction of the police under Section 173(8) of the Code of Criminal Procedure, 1973 (Cr.P.C.) to gather such further material as is being referred to and have the same verified and subjected to forensic scrutiny and supplementary report under Section 173 Cr.P.C. shall be submitted before the trial court within two months.

He also submits that since Sub-Inspector Rakhi, the earlier investigating officer, has already been posted out of the said Police Station, the further investigation would be carried out by some other police official of appropriate rank to whom the matter shall be entrusted.

The learned counsel for the petitioner submits, on instructions from the petitioner, who is present in person, that in view of the above-mentioned assurances and undertakings given by the investigating agency, she does not pray for any further directions in the present petition.

The interim order is vacated but the trial court shall secure the supplementary report before passing the final order.

The petition is disposed of in above terms.

This disposes of pending applications as well.

R.K.GAUBA, J.

OCTOBER 11, 2018/uj