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

+ CRL.L.P. 506/2018

STATE (NCT OF DELHI)

..... Petitioner

Through: Ms.Kusum Dhalla, APP for State

versus

MOHD. IBRAHIM ANSARI

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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21.08.2018

The State has preferred the present petition to seek the leave to appeal against the judgment dated 02.05.2018 passed by the learned Additional Sessions Judge-Special FTC-2 (Central), Tis Hazari Courts, Delhi in Sessions Case No. 65/2015 arising out of FIR No. 203/2015, under Sections 376 (2) (n)/376 (2) (h)/341/506 IPC registered at Police Station - Jama Masjid.

The trial Court has acquitted the respondent-accused by the impugned judgment. The facts taken note of in the impugned judgment are as follows:

“The criminal law set into motion on the statement of the prosecutrix, Ex.PW2/A wherein she has stated that she had come from Kashmir along with her friend Altaf and had stayed on rent in the house of accused where accused was also residing at the ground floor and during absence of his friend Altaf, on 13.11.2015 at about 8:00 p.m., accused came in her room

and enquired about Altaf and when she told him that Altaf had gone outside to bring articles, he closed the door of the room and put off the light, gagged her mouth and raped her, accused threatened her that if she would raise alarm he will get her arrested by the police saying that she had eloped with Altaf from Kashmir. Thereafter, on 15.11.2015 in the night at about 2:00 a.m. when she was in bathroom, accused came there and raped her. She further alleged that on 16.11.2015 while Altaf was asleep, accused raped her and on 17.11.2015 at about 8:00 p.m. when she had gone to bathroom, accused had already hid himself there and he again raped her in the bathroom. Finally, she mustered courage and informed the incident of rape to her friend Altaf who called the police on number 100 and DD No.4A and 6A were lodged in PS Jama Masjid on the basis of which W/SI Mumtaz came at the spot, met the prosecutrix and took her for her medical examination in LNJP Hospital. The prosecutrix was medically examined vide MLC Ex.PW2/A and an emergency card Ex.PW3/A was also prepared by the doctors. In the alleged history given by prosecutrix to doctor, she named accused as the person who raped her.”

The trial Court has acquitted the respondent-accused since the prosecution did not lead enough credible evidence to bring home the guilt of respondent-accused. Apart from the statement of the prosecutrix, which too leaves several questions unanswered, the scientific evidence, namely, the DNA report did not support the case of the prosecution.

The submissions of Ms.Dhalla, learned APP is that in view of the fact that the prosecutrix and PW-4 Altaf supported the case of the prosecution, the respondent-accused ought to have been convicted.

Having perused the impugned judgment and the testimonies placed on

record, and having heard Ms.Dhalla we are of the view that there is absolutely no merit in this petition and there is no reason to interfere with the impugned judgment. The prosecutrix was a fully matured and grown up lady, who eloped with PW-4 Altaf leaving behind her three children with her husband. Altaf too was a married man. The case of the prosecution is that the prosecutrix and Altaf stayed at the residence of the accused. According to the prosecutrix she was repeatedly subjected to sexual assault by the accused for about seven nights continuously. There is no explanation why she did not report the matter. It is alleged that only on the last occasion, when she was found with the accused by PW-4 Altaf, the matter was reported to the police.

Under these circumstances we are of the view that the trial Court correctly did not find the prosecutrix credible enough to convict the respondent-accused solely on the basis of her testimony. So far as PW-4 Altaf is concerned, he was not an eyewitness, and his knowledge is derived only from what was narrated to him by the prosecutrix.

Dismissed.

VIPIN SANGHI, J

I.S.MEHTA, J

AUGUST 21, 2018

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