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

+ **CRL.REV.P. 701/2018**

STATE

..... Petitioner

Through: Ms. Richa Kapoor, Add. Standing Counsel
for State and Ms. Amita Sachdeva,
Advocate with SI Vidya R., P.S. Maurya
Enclave.

Versus

KRISHNA

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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29.08.2018

A young girl, barely of 15 years, felt oppressed in her own home with no glimpse of hope. Her father was a regular drunkard. He used to beat her mother; their family atmosphere was neither welcoming to her nor conducive for her growth. She wanted to escape from it. She had a friend, who too was just about 18 years. He was returning to his parental home in Bihar on 29.12.2017. She, of her own free will, left her home and requested her friend to take her along with him. The friend perhaps knew about her family conditions and in his goodness took her along with him to his family in Bihar. The boy's parents were naturally infuriated with him for bringing a young girl to their house. They promptly brought her back to Delhi, in the following couple of days and dutifully handed her custody over to her mother. The young girl, in her statement recorded before the learned Metropolitan Magistrate under section 164 Cr.P.C. has categorically stated that she left her home of her free volition, in view of the oppressive

conditions prevailing there. She has not stated that she was either physically assaulted or that she entered into a physical relationship with the respondent. She had refused an internal examination of her body before the hospital, to ascertain any physical assault on her.

In view of the above, the Trial Court discharged the respondent since no case was made out against him. The relevant portion of the impugned order read as under:-

“9. The facts of this case are exactly similar to the one in these cases before Hon'ble High Court. In the present case, nothing has been said by the victim against the accused in her statement u/s 164 CrP.C. The Court has not to act as mouthpiece of the prosecution, but should examine the broad probabilities of the case.

10. Similarly, in another case titled as Shyam Kumar Vs. State (NCT of Delhi), CrI. Revision Petition no. 424/16, decided on 01.03.2017, Hon'ble High Court discharged the accused therein after considering the statement of the victim recorded u/s 164 Cr.P.C, wherein no averments were made against the accused showing commission of any offence.

11. From the material on record, no strong suspicion against accused having committed kidnapping and penetrative sexual assault upon the prosecutrix is made out. Accordingly, the accused Krishna is discharged. He is on bail. His bail bond stands cancelled. Surety stands discharged. Endorsement, if any on the documents of either accused or his surety be cancelled. The original documents of accused or his surety, if on record, be returned to them forthwith.”

What emanates from the above is that a young girl felt compelled to escape from the oppressive conditions prevailing at her home and was looking for a better and happier circumstances; her desire may have been innocent but leaving her home in the manner she did was fraught with

dangers.

However the circumstances of the case as discussed above are not such to conclude that she was allured, abducted or otherwise enticed by the respondent into leaving her parental home. Accordingly, the Court finds no reason to interfere with the impugned order. The petition is without merits and is accordingly dismissed.

NAJMI WAZIRI, J.

AUGUST 29, 2018

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