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

+ **W.P.(CRL) 2150/2017**

SMT VIDYA DEVI

..... Petitioner

Represented by: Mr. Anil Kr. Pruthi, Adv.

versus

STATE & ORS

..... Respondent

Represented by: Ms. Kamna Vohra, ASC with
SI Pawan Kumar PS South
Rohini.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
08.03.2018

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1. By this petition, the petitioner has sought directions to respondents No.1 to 3 to investigate the fact of death of Sumit Solanki and all relevant documents filed thereof or in the alternative hand-over the investigation to CBI or any other appropriate agency.

2. Petitioner is the mother of the victim who had filed the FIR. Petitioner's husband had lodged a complaint against Sumit Solanki on 19th September, 2009 alleging that he was stalking their daughter and misbehaving with her. It was further their case that Sumit Solanki committed rape with their daughter on 31st October, 2011. On the complaints of the petitioner's husband FIR No.62/2013 under Sections
W.P.(CRL) 2150/2017

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354D/509/376/506 IPC was registered and a charge-sheet was filed on 18th December, 2013. Charge was framed against Sumit Solanki and he was facing trial. On 9th August, 2016 Sumit Solanki was declared dead by BSA hospital. The Police got his post-mortem conducted. As per the post-mortem report the cause of death of Sumit Solanki who was duly identified was due to pleural effusion and its complications - a natural cause of death, for the reason both the lungs of the deceased had multiple pus pockets. Death certificate was also collected. When a report along with the copy of the death certificate was filed before the Trial Court on 3rd March, 2017 the learned Additional Sessions Judge held that proceedings against Sumit Solanki got abated.

3. Case of the petitioner who is the mother of the victim in FIR No.62/2013 is that she had seen Sumit Solanki on 14th August, 2016 and thus the post-mortem report should not be relied upon. It is further stated that despite the fact that Sumit Solanki had died on 9th August, 2016 on 3rd October, 2016 an application for examination from personal appearance was filed which was allowed by the learned Additional Sessions Judge. Thus, Sumit Solanki is still alive and the factum be verified.

4. On a notice being issued a detailed status report has been filed. As per the status report on the petition being received statement of the petitioner was recorded who stated that on 14th August, 2016 while she was going to Vijay Vihar Phase-II, Delhi on her scooty with her son Ambar around 5 to 6 PM and had reached near Khanna Meat Shop, Vijay Vihar Phase-II, Delhi she saw Sumit Solanki was walking and was wearing lemon colour shirt and he hid his face with the other sleeve. Though her son Ambar who was

driving the scooty could not see Sumit Solanki but the petitioner saw. She also stated that in October, 2016 the counsel for Sumit Solanki filed an application for his exemption from appearance despite the fact that he passed away on 9th August, 2016.

5. Facts stated by the petitioner were verified and besides the petitioner no other person either in the neighbourhood or over there in the vicinity had seen Sumit Solanki. Statements of father of the deceased, other two neighbours were recorded who stated that Sumit Solanki died on 9th August, 2016 due to illness and was taken to BSA hospital. His post-mortem was also conducted at BSA Hospital on 11th August, 2016. After the post-mortem the body was cremated on 11th August, 2016 in the cremation ground of Vijay Vihar. Documents in this regard in the form of copy of death certificate, post-mortem report have also been placed on record. Statement of various witnesses who are also living in the neighbourhood have also been recorded who have fortified that Sumit Solanki has passed away.

6. As regards the application for exemption of Sumit Solanki during the course of trial filed by the learned counsel is concerned, statement of learned counsel was recorded who stated that since he had no instructions in the matter and Sumit Solanki had not appeared he filed an application for exemption from appearance which was allowed by the Court. Later he had called up at the number of Sumit Solanki but he did not pick up, however he received a call back from his father who informed him that Sumit Solanki had passed away and thus on the next date of hearing it was informed to the Court when all documents were placed before the Court, the Court disposed

of the trial as abated against Sumit Solanki.

7. Considering the material placed on record in the form of statement, post-mortem report and death certificate, this Court finds no ground to get any further investigation or enquiry done in the matter.

8. Petition is dismissed.

MUKTA GUPTA, J.

MARCH 08, 2018
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