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

DECIDED ON : APRIL 05, 2018

+ **W.P.(CRL) 1627/2015 & Crl.M.A.Nos.11201/15, 15455/15 & 15457/15**

‘A’ & ORS Petitioners
Through : Mr.Sunil Dalal, Advocate.

Versus

STATE NCT OF DELHI & ORS Respondents
Through : Mr.Shashank Vaccher, counsel for
Mr.Avi Singh, ASC.
SI Bharti, PS Shalimar Bagh.

+ **W.P.(CRL) 1626/2015 & Crl.M.A.Nos.11185/15 & 15459/15**

MADAN LAL & ANR Petitioners
Through : Mr.Sunil Dalal, Advocate.

Versus

STATE NCT OF DELHI & ORS Respondents
Through : Mr.Shashank Vaccher, counsel for
Mr.Avi Singh, ASC.
SI Bharti, PS Shalimar Bagh.

CORAM:
HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. W.P.(Crl.) No.1627/2015 has been preferred by the prosecutrix
‘A’ (assumed name). FIR No.859/15 under Sections

342/323/328/376/506/34 IPC was registered at Police Station Shalimar Bagh on her complaint on 19.07.2015. She had alleged commission of rape by her father. Grievance of the petitioners is that the investigation has not been carried out fairly by the investigating agency. Various relevant material/documents have not been collected or placed on record. A false cross-case vide FIR No.844/15 under Sections 376/506/34 IPC has been registered at Police Station Shalimar Bagh against her husband and brother-in-law on the complaint of her step brother's wife on 14.07.2015.

2. W.P.(Crl.) No.1626/2015 has been filed by the petitioners Madan Lal and Manish Gola for quashing of FIR No.844/15 registered under Sections 376/506/34 IPC at Police Station Shalimar Bagh which is a false one to force 'A' to withdraw her complaint.

3. During the course of arguments, it was informed that charge-sheets in both the FIRs have already been filed. In one FIR, charge has been framed and it is listed for recording statements of the prosecution witnesses. In the other FIR, the charge is yet to be framed.

4. The grievance of the petitioners in W.P.(Crl.) 1627/2015 is that the investigation has not been carried out in fair and proper manner and material evidence has not been collected or placed on record by the investigating agency before the court.

5. From perusal of the trial court record in FIR No.859/15, it transpires that the learned Metropolitan Magistrate was not satisfied with the investigation. By an order dated 23.05.2016 further investigation under Section 173 (8) Cr.P.C. was ordered. Supplementary charge-sheet has since been filed after further

investigation on 09.06.2016. Order records that the complainant was not still satisfied with the investigation and Protest petition was filed to print-out various infirmities in the investigation.

6. Learned counsel for the petitioners urges to permit the prosecutrix/victim to place on record various documents in her possession/custody for fair trial. It is further urged that certain relevant documents are not in her custody, the investigating agency be directed to collect the said material (if possible) and place it on record before the trial court.

7. Petitioners' counsel has filed an application giving detailed list of documents. The documents mentioned at Serial No.1 are not in 'A's possession. The documents at Serial No.2 are in her possession and she wishes to place these on record before the trial court for consideration during trial.

8. The learned Additional Standing counsel appearing for the investigating agency has no objection if all these documents at Serial No.2 are placed on record before the trial court for consideration. He further informs that every attempt shall be made to collect the documents disclosed at Serial No.1 of the application and if available shall be filed within two weeks before the trial court.

9. Consequently, in the interest of justice and in the interest of fair trial, the prosecutrix/victim is permitted to place on record the documents mentioned at Serial No.2 of the application before the trial court within two weeks. These documents when produced shall be taken on record by the trial court without prejudice to the rights of the accused persons facing trial therein. The authenticity, veracity and

genuineness of these documents shall be determined during trial. The accused persons would be at liberty to file objections to the contents of these documents. Objections (if any) shall be taken on record and would be taken care of during trial/final disposal.

10. The investigating agency shall endeavour to collect all the documents mentioned in para No.1 of the application and if available shall place it on record before the trial court within two weeks in similar circumstances.

11. In view of the above, the learned counsel for the petitioners seeks permission to withdraw W.P.(CrI.)1626/2015 (*Madan Lal & Anr.vs.State NCT of Delhi & Ors.*). It is dismissed as withdrawn.

12. W.P.(CrI.)1627/2015 stands disposed of with the above directions.

S.P.GARG
(JUDGE)

APRIL 05, 2018/sa