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

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Judgment delivered on: 15.01.2018

+ CRL.REV.P. 774/2015

KAMINI KASHYAP THR. HER FATHER Petitioner

versus

STATE OF NCT OF DELHI & ORS. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Madhu Mukul Tripathi, Adv.

For the Respondents : Mr. Akshai Malik, Addl. PP for the
State with ASI D.K. Tyagi
Mr. Ravinder Singh, Adv. for R-2

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT
15.01.2018

SANJEEV SACHDEVA, J. (ORAL)

CRL.M.A.17504/2017 (Exemption)

Allowed, subject to all just exceptions.

CRL.REV.P. 774/2015

1. The petitioner impugns the order dated 06.05.2015 whereby the application of the petitioner under Section 439 (2) of the Cr. P.C. for cancellation of the bail to respondent no. 2 – accused was rejected. It

is contended by the counsel for petitioner that after respondent no. 2 was enlarged on bail he is alleged to have entered the house of the petitioner, poured water on her and threatened her to withdraw the case.

2. Learned counsel for the petitioner submits that the respondent no. 2 had misused the liberty granted to him and as such the bail already granted to him is liable to be cancelled. He places reliance on judgment of the Supreme Court in *Dolat Ram Vs. State of Haryana* (1995) 1 SCC 349

3. Learned counsel for respondent no. 2 contends that the allegations in the subsequent FIR; of respondent no. 2 having misused the liberty granted are false and are counter-blast to the complaint lodged by the wife of respondent no. 2 against the father of the petitioner for having misbehaved with her. Learned counsel for the respondent no. 2 submits that though the recording of FIR of the wife of respondent no. 2 is subsequent to the FIR lodged by the petitioner, it pertains to an incident, which has happened prior to registration of the FIR.

4. The allegations and the counter allegations in the two FIRs are disputed by the respective parties.

5. Learned Addl. PP for the State submits that in so far as the second FIR lodged by the petitioner is concerned, charge sheet has been filed and the matter is under trial. With regard to the first subject

FIR, learned Addl. PP submits that the entire prosecution evidence is complete and the matter is now listed for the statement of accused on 05.02.2018.

6. Learned Addl. PP submits that without prejudice to the allegations and the counter allegations raised by the petitioner and respondent no. 2 the case is at the stage where final judgment is likely to come very soon.

7. The Judgment in *Dolat Ram* relied upon by learned counsel for the Petitioner does not support his case. The Supreme Court in *Dolat Ram Vs. State of Haryana (supra)* held that the bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.

8. In the present case, entire prosecution evidence is concluded. The case is now fixed for the statement of accused. Though the allegations made by the petitioner that respondent no. 2 misused the liberty is yet to be adjudicated upon, however, it may be seen that at this juncture there is no possibility of the accused, in any manner, interfering or influencing the prosecution witnesses or affecting the progress of the trial. Without commenting on the merits of the respective allegations raised by the petitioner and respondent no. 2, since the trial is now complete and the fact that there is no allegation

on record to substantiate that respondent misused the liberty granted after the alleged incident of 2015, I find no ground to interfere with the impugned order dated 05.06.2015 and to cancel the bail of respondent no. 2.

9. In view of the above, I find no merit in the petition. The petition is accordingly dismissed.

SANJEEV SACHDEVA, J

JANUARY 15, 2018
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