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

% Judgment delivered on: 13.12.2018

+ CRL.REV.P. 849/2015

STATE

..... Petitioner

versus

UDHAV TRIVEDI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Hirein Sharma, APP for the State.
SI Pankaj Kumar, PS Vasant Kunj (South)
Complainant in person.

For the Respondent : Mr. Rajiv Mohan with Mr. Abhimanyu Kampani,
Mr. M.A.Kartik and Mr. Tejasva Mehra, Advocates
with respondent in person.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

13.12.2018

SANJEEV SACHDEVA, J. (ORAL)

Crl.M.A.18976/2015 (for condonation of delay)

1. Petitioner State, by the present application, seeks condonation of delay of 90 days in filing of the petition.
2. For the reasons stated in the application, the application is allowed. The delay in filing the petition is condoned.

CRL.REV.P. 849/2015

1. State has filed this petition impugning order dated 29.05.2015, whereby, the Trial Court has discharged the respondent for the offence under Sections 365/366/376/325/342/506 IPC in FIR No. 1208/2014, Police Station Vasant Kunj.

2. The allegations against the accused respondent made by the prosecutrix were that he had entered into physical relationship with her. It was alleged that the prosecutrix had met the accused when he was admitted in a hospital where she was working as a nurse. Subsequently, they became friends and thereafter they took up a separate residence and started living together where, it was alleged, that the accused put *Mangalsutra* and Vermilion (*Sindoor*) on the forehead of the prosecutrix. Thereafter, they are alleged to have shifted to Delhi to a rented accommodation.

3. It was alleged that the respondent had thereafter made physical relationship with her forcefully. Further, it was alleged that the respondent used to physically torture her and had caused injuries. It was alleged that he had confined her and she subsequently made a call to her mother and maternal uncle and she was recovered from a flat which was found locked from outside.

4. Trial Court, by the impugned order, noticed the contentions of the accused that both the complainant and the accused had got married

on 12.05.2013 and their marriage was also registered with the Registrar of Marriage on 17.03.2015 and since the date of their marriage they were living together as husband and wife.

5. The Trial Court had noticed that investigation showed that the prosecutrix had accompanied the accused on her own free will and had got married on 12.05.2013 and thereafter they were living together. Trial Court found that the sequence of events revealed development of friendship between the two up to the stage of marriage and that they were living together on their own free will and that they were in physiological and emotional contact and had friendship for over 2 years prior to the date of the incident.

6. On perusal of the record, the Trial Court was of the view that the conduct of the accused was not covered under the definition of the offence under Section 325 IPC as none of the injuries allegedly suffered by the prosecutrix fell in any of the specific categories spelt out under Section 320 IPC. Further, in view of the fact that the prosecutrix and the accused had entered into marriage and subsequently got their marriage registered under Special Marriage Act, no strong *prima facie* case for the offences under Sections 365/366/376/325/342/506 IPC was made out against the accused and, accordingly, the Trial Court discharged the accused of the aforesaid offences.

7. Learned counsel for the respondent points out that the

prosecutrix and the complainant had entered into a settlement, consequent to which, the prosecutrix and the complainant approached the Family Court for obtaining divorce and a decree of divorce has been passed on 21.03.2018.

8. The prosecutrix was also put to notice by this Court and she is present in Court and is identified by the Investigating Officer. She submits that she has obtained divorce from the respondent and has also received the settlement amount in terms of the Settlement Agreement. She submits that she does not wish to prosecute the complaint and does not impugn the order of discharge as she has accepted her marriage and subsequent divorce from the accused.

9. Keeping in view the totality of facts and circumstances of the case and also the fact that the parties have subsequently admitted the factum of marriage and dissolved their marriage by mutual consent and a decree of divorce has been passed by a Court of law, I am of the view that the impugned order does not suffer from any infirmities.

10. In view of the above, I find no merit in the petition. The petition is, accordingly, dismissed of. There shall be no order as to costs.

DECEMBER 13, 2018
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SANJEEV SACHDEVA, J