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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 4998/2019

STATE

..... Petitioner

Through: Mr. Mukesh Kumar, APP with
SI Jyoti, PS:Model Town,
Delhi

versus

SANJAY GUPTA & ORS

..... Respondents

Through: Ms. Rukmini Mukherjee,
Advocate for respondent Nos.1
to 3
Mr. Akhilesh Kumar, Advocate
for respondent No.4

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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20.12.2019

1. This is a petition filed by the State under Section 482 of the Code of Criminal Procedure, 1973 for setting aside the order dated 31.5.2019 passed by the learned Additional Sessions Judge, Rohini Courts, Delhi.
2. Learned APP submitted that investigation in the matter has been completed and the charge-sheet shall be filed within a week and no further investigation is required to be conducted in this matter.
3. Learned counsel for the respondent Nos. 1 to 4 submitted that their only concern is that the investigation should be fair.
4. Learned counsel for the respondent No.4 fairly submitted that the Sessions Court, vide order dated 31.5.2019, only opined that this case should be transferred to the Crime Branch

so that it should be investigated thoroughly and by not below the rank of Joint Commissioner of Police so that the prosecutrix should get justice without any fear in her mind. Learned counsel for the respondent No.4 also submitted that the investigation is now complete and the petitioner may be directed to positively file the charge-sheet within a period of one week.

5. Learned APP submitted that the investigation was done under the supervision of the ACP and SHO, Model Town, Delhi, in compliance of the orders of the learned Metropolitan Magistrate and the reports by the ACP and the SHO concerned were filed from time to time in the Court of the learned Metropolitan Magistrate.

6. It would be quite relevant to reproduce the relevant portion of the order dated 29.3.2019, passed by the learned Metropolitan Magistrate, wherein it has been held as under:

“A report under the signature of DCP North West Distt received stating inter alia that explanation has been issued to IO/WSI Sangeeta and advisory to Inspector Anant Kiran, the then SHO, PS:Model Town for their lapse; now the case has been transferred to W/SI Jyoti for further investigation and she has been directed to conclude the investigation at the earliest; further, ACP, Model Town and SHO, Model Town have also been directed to supervise the investigation of the case.

SHO, PS:Model Town seeks some more time to conclude further investigation and file report. He is directed to expedite further investigation and

file report.”

7. Learned APP submitted that the opinion of the learned ASJ is no more required to be implemented and if any further investigation, at any stage, would be required, that would be done under the supervision of ACP and SHO, Model Town, Delhi, in compliance of the orders of the concerned learned MM and there is no necessity to transfer the matter to the Crime Branch and to investigate the same by not below the rank of the Joint Commissioner of Police, in view of the specific orders of the learned Metropolitan Magistrate in this regard.

8. Learned APP has relied on the decisions of this Court in *State of NCT of Delhi v. Dharambir & Ors.*, 264(2019) DLT 385 and *State (GNCT of Delhi) v. Amit Kumar*, CrI. Rev. P. 928/2019, decided on 3.9.2019.

9. In view of the aforesaid circumstances, more so taking into consideration that the investigation is complete under the supervision of the ACP and SHO, Model Town, Delhi, in compliance of the order dated 29.3.2019 of the learned Metropolitan Magistrate and since there has been a specific direction of the learned Metropolitan Magistrate to conclude the investigation at the earliest and further that the ACP and the SHO were directed to supervise the investigation of the case, the impugned order dated 31.5.2019 opining that the case should be transferred to the Crime Branch and should be investigated by not below the rank of JCP is liable to be set aside to avoid any confusion and legal complication in the

matter without going into the question of difference between directions and opinion. Accordingly, the order dated 31.5.2019 is set aside.

10. Petition is accordingly disposed of.

CHANDER SHEKHAR, J

DECEMBER 20, 2019

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