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

+ W.P.(CRL) 115/2018 & CrI.M.A.No.716/2018 (stay)

ASHWANI KUMAR

... Petitioner

Represented by: Mr.Manoranjan, Advocate

versus

THE STATE GOVT OF NCT OF DELHI & ANR... Respondents

Represented by: Ms.Nandita Rao, ASC for the State
with Mr.Amit Sharma, Addl. DCP-I
(Central), Mr.Sanjeev Gupta, ACP,
Paharganj, Insp.Mahender Singh,
SHO, PS DBG Road, SI Yogendra,
PS DBG Road and SI Ashish Gaba,
PS DBG Road

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

20.02.2019

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1. Pursuant to the directions of this Court, Additional DCP-I (Central) is present in Court. He states that the process has been streamlined and all orders of the Court are directed to be put before the DCP so that necessary action can be taken.

2. By this petition the petitioner seeks quashing of FIR No.38/2017 under Section 376 IPC registered at PS Desh Bandhu Gupta Road and the proceedings emanating therefrom on merits. Case of the petitioner is that the complainant was married at the time when she alleges that the petitioner

on the promise of marriage established physical relations. The petitioner has placed on record a certificate issued from a Church at Virendra Nagar, Surkhaith, Nepal.

3. The allegations of the complainant in the FIR in question and in the statement under Section 164 Cr.P.C. were that six years prior to the date of registration of FIR she became friendly with the petitioner and two years prior to the registration of marriage petitioner proposed her and assured that he will marry her and support her. He took her to the house of his brother and sister-in-law which was a rented accommodation. There, the petitioner confronted the complainant a lot and assured that he would help her in difficult times. The petitioner wanted to establish physical relations which the complainant refused but the petitioner assured that he would marry her and also support her so she should not stop him and thereafter, they made physical relations which continued thereafter. Later, petitioner married on 28th January, 2016. When the complainant confronted him for this, he stated that he had married for the sake of his mother who was not keeping well and he would continue to have physical relations with her and support her even financially. It is the case of the complainant that she even left her job as the petitioner told her that he will get a parlour opened for her however the petitioner did not keep his promise and on the contrary, he started blackmailing and threatening her.

4. To support his claim that the complainant was married at the time when the alleged physical relations were established and hence there could be no promise of marriage, the petitioner has placed on record the certificate as noted above from a Church at Nepal. Learned Additional Standing

Counsel for the State submits that verification of the said certificate which was filed by the petitioner, copy whereof was filed by the petitioner during the course of hearing of the anticipatory bail is in process and necessary letters in this regard have been written by the Ministry of External Affairs to their counterparts at Nepal. She states that as and when the reports are received the same will be filed before the learned Trial Court by way of a supplementary charge-sheet.

5. Learned counsel for the petitioner has also drawn the attention of this court to the examination-in-chief of the prosecutrix who stated that the petitioner got married on 28th January and she also got married on 4th February, the year she did not know. As per the certificate produced by the petitioner, prosecutrix was married on 4th February, 2014. If the certificate is verified to be true and the prosecutrix was married at the time of establishing physical relations on the assurance of marriage, which she could not have lawfully done, the petitioner would have a case in his favour.

6. Considering the fact that the marriage certificate of the complainant is still not verified and efforts in this regard are being made by the State, at this stage, this Court finds no ground to quash the FIR in question. However, needless to note that as and when the verification report is received, supplementary charge-sheet in this regard will be filed before the learned Trial Court and the petitioner would also be at liberty to file a fresh petition seeking quashing of FIR in question if he so desires. State is also directed to get the FSL report expeditiously and file the same before the learned Trial Court so that further examination-in-chief and cross-examination of the

prosecutrix can take place at an early date.

7. Petition is disposed of. Order Dasti to learned Additional Standing Counsel for the State.

CrI.M.A.No.716/2018

Dismissed as infructuous.

MUKTA GUPTA, J.

FEBRUARY 20, 2019
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