

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CRL.REV.P. 461/2016 & CrI.M.A.10402/2016

Reserved on : 29.01.2020

Date of Decision : 31.01.2020

THE STATE (NCT OF DELHI) Petitioner
Through: Dr. M.P. Singh, APP for State.

versus

SANKAT MOCHAN & ANR Respondents
Through: Mr. K. Singhal, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

1. The present revision petition is directed against order dated 15.01.2016 passed by Addl. Sessions Judge in SC No.09/2015 arising out of FIR No.825/2014, P.S. New Usmanpur, Delhi, whereby the respondents were discharged of the offence under Section 506/34 IPC.
2. The case of the prosecution in a nutshell is that on 05.09.2014, the prosecutrix went to Police Station New Usmanpur and DD No.24A was recorded, in which it was mentioned that her land lord Munna Lal and his auto driver Gautam had committed rape upon her. Her statement was recorded and FIR was registered. It was stated that the prosecutrix was distantly related to Vidhyanchali/respondent No.2, who is the wife of Munna Lal. At the relevant time, she was staying with accused Munna Lal as a tenant. Somewhere in April 2014, accused Munna Lal along with Gautam, who was also residing in the same premises, forcibly entered her room and raped her one after the other. She was

also threatened that in case she disclosed the said incident to any person, she would be killed.

3. On the basis of the aforesaid complaint, the FIR in the present case was registered under Section 376(2)(g)/506 IPC.

4. On the same day, the prosecutrix was medically examined and her MLC was prepared. In the history of assault given by her, it was stated that Munna Lal and Gautam had committed rape upon her and also threatened her.

5. On the next day, i.e. on 06.09.2014, the statement of the prosecutrix was recorded under Section 164 Cr.P.C. The impugned order with respect to her statement reads as follows: -

“3. During investigation, statement of the prosecutrix under Section 164 Cr.P.C. was got recorded by the learned Metropolitan Magistrate. The English translation of her statement under Section 164 Cr.P.C. reads as follows:

“I have been raped by landlord Munna Lal and Gautam together. After the incident of rape, my sister Vidhyanchali came and said as to why I was weeping and it was I who had sent your brother-in-law Sankat Mochan @ Babloo stated that if any false allegation is made on his father, he will sprinkle acid on me. Munna Lal looks at me with evil eyes. I have left him as he is related to me. I do not want to add anything. My advocate would come on Monday. I am liberate. I am selling corncobs (bhootas) at Old Delhi station.”

6. Learned counsel for the petitioner submits that there was delay of more than 5 ½ months in lodging the FIR by the prosecutrix. Even at that time, the prosecutrix did not level any allegations against the

present respondents. Further, at the time of her medical examination, she again did not level any allegations against the present respondents. He has drawn the attention of the Court to her statement recorded under Section 164 Cr.P.C., where it was stated that her Advocate would come on Monday, to urge that the prosecutrix was in touch with a counsel and as such, naming of the present respondents was an after-thought. It is relevant to note that the respondents are the son and wife of accused Munna Lal.

7. After completing the investigation, a charge-sheet was filed on 28.10.2014 where the name of respondent No.1 was kept in Column No.12. In the supplementary charge-sheet filed on 01.11.2014, names of both the respondents were mentioned in Column No.12. The Investigating Officer at the time of filing the charge-sheet also enclosed an NGO statement of the victim where again the allegations were levelled only against accused Munna Lal and Gautam.

8. Initially, both the respondents were summoned vide order dated 01.11.2014, however, later, while noting that the allegations were vague and delayed, Id. Addl. Sessions Judge passed the order thereby discharging both the respondents.

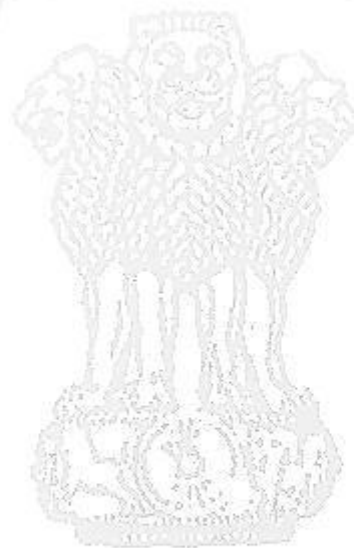
9. The incident occurred in April, 2014 and after a delay of 5 ½ months, the complaint was filed on 05.09.2014. The prosecutrix gave history of assault to the doctor at the time of recording of her MLC where the names of the present respondents were not taken by her. As the complaint itself was filed after a period of 5 ½ months of the incident, it is apparent that the same was filed after much thought and consideration. I find considerable force in the argument of the learned

counsel for the respondents that the subsequent naming of the present respondents was a result of an after-thought.

10. I do not find any infirmity or illegality in the impugned order passed by the Trial Court. Accordingly, the revision petition is dismissed. The pending application is also disposed of.

(MANOJ KUMAR OHRI)
JUDGE

JANUARY 31, 2020
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