



\$~49

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

+ **CRL.REV.P. 121/2023**

STATE THROUGH DCP WEST DELHI Petitioner

Through: Mr. Pradeep Gahalot, APP
for the State alongwith
Ms. Kavita Gupta, Ms.
Dimple & Ms. Divya
Singh, Advocates & SI
Umesh Dalal (P.S.
Mundka).

versus

EKTA DHAMA Respondent

Through: Mr. D.V. Khatri,
Advocate.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
24.05.2024

%

1. The present petition is filed under Section 397 read with section 401 of the Code of Criminal Procedure, 1973 ('CrPC') by the prosecution being aggrieved by the order dated 04.11.2022 passed by learned Additional Sessions Judge ('ASJ') (F.S.T.C) RC-01, West District, Tis Hazari Courts, Delhi in SC No. 730/2018 and in FIR No. 65/2017 under Sections 323/506/34 of the Indian Penal Code, 1860 (hereafter '**the impugned order**'). Chargesheet was filed against the accused Subhash Dhama under Sections 323/354/376(2)/506/34 of the IPC and against accused Ankur Dhama and respondent under Sections 323/506/34 of the IPC.

CRL.REV.P. 121/2023

Page 1 of 3



2. The learned ASJ by the impugned order has discharged the respondent. The FIR was registered pursuant to a complaint given by the prosecutrix alleging that on 27.06.2016, her modesty was outraged and rape was committed upon her by Subhash Dhama. It was also alleged that when the said incident was disclosed to accused Ankur Dhama, he abused her and gave beatings to her and also threatened her of dire consequences. Against the respondent, it was alleged that she being related to accused Ankur Dhama, had called her to her chamber at Karkardooma and tried to persuade her to withdraw her complaint. It was alleged that the respondent had also slapped the prosecutrix.

3. The learned ASJ by impugned order found no sufficient evidence to proceed against the respondent and discharged her which led to filing of the present petition.

4. The charges were framed against the accused Subhash Dhama and Ankur Dhama under Sections 323/354/376/498A/506 of the IPC. It is pointed out that trial in the FIR has already been concluded and the learned Trial Court after considering the evidence, acquitted the accused Subhash Dhama and Ankur Dhama by judgment dated 10.08.2023. It was noted by the learned Trial Court that the prosecutrix herself never entered the witness box to depose about the allegations and there is no inculpatory evidence against the accused persons for the alleged commission of offence.

5. No appeal has been filed by the prosecution challenging the said judgment dated 10.08.2023. Appeal has also not been filed by the prosecutrix. It appears that the prosecutrix as well as the prosecution has accepted the judgment passed by the learned Trial Court.

CRL.REV.P. 121/2023

Page 2 of 3



6. Once the remaining accused persons, who were charged for the offence in the present case, have been acquitted pursuant to the appreciation of the evidence, the present petition challenging the discharge of one of the co-accused in the same FIR in regard to the same alleged incident would not be maintainable.

7. The petition is, therefore, dismissed.

AMIT MAHAJAN, J

MAY 24, 2024

'Aman'/'SK'