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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 04.01.2024

+ CRL.L.P. 305/2022, CRL.M.A. 12674/2022

STATE

..... Petitioner

Through: Ms. Meenakshi Dahiya, APP with
SI Aarti, PS: Bhalswa Dairy.

versus

ANISH

..... Respondents

Through: Mr. Ashwani Kumar Bali and
Mr. Hem Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N T**ANOOP KUMAR MENDIRATTA, J (ORAL)**

1. Criminal Leave Petition under Section 378(1)(b) of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of State, challenging acquittal of the respondent vide judgment dated 06.09.2019 passed by learned MM, Mahila Court - 01, North District, Rohini Courts, Delhi, for offences punishable under Sections 354D/506/34 of IPC in FIR No. 563/2015 registered at PS: Bhalaswa Dairy.

2. In brief, the criminal law was set into motion on 05.10.2015 on the basis of registration of FIR on statement of complainant Smt. 'B', mother of victim 'J' (names withheld). Complainant alleged that three boys used to trouble her daughter and had sent a boy to ask for her daughter's mobile number. Further, the said boys also threatened and used to follow her daughter.



3. FIR No. 563/2015 was accordingly registered under Sections 354D/506/34 IPC. Statement of the victim, who was aged about 18 years at the time of the incident, was also recorded under Section 164 Cr.P.C.

4. Vide impugned judgement, learned MM acquitted the accused on the ground that there were material inconsistencies in the statements of PW-1, (the mother of the victim) and PW-2, (victim), and no cogent evidence had been led on record to prove that the accused used to follow the daughter of the complainant. As such, in the absence of evidence, learned MM was of the view that offences under Section 354D/506/34 of IPC were not made out.

5. Learned APP for the State has taken through statements of both the material witnesses PW-1 and PW-2, in support of her contentions and submits that the prosecution version has been supported by the witnesses.

6. On the other hand, learned counsel for the respondent supports the impugned judgment and submits that no evidence has been led on record to prove the ingredients of Section 354D of IPC.

7. We have given considered thought to the contentions raised.

As per statement of PW-1 and PW-2, accused along with his brother 'A' and friend 'S' (both JCL) used to harass her daughter by roaming around the house of complainant on motorcycle and send a child for asking the mobile number of 'J'. The matter is further stated to have been taken up in the presence of the father of the accused, who reprimanded him. The accused is further stated to have threatened the petitioner. Similarly, PW-2 stated that the accused used to send a child asking for her mobile number and had sent his phone number through the same child.

8. A bare perusal of the statements of PW-1 and PW-2 reveals that neither date nor particulars of any such incident of stalking were specified in



their statements. The identity of the child, through whom the mobile number is alleged to have been sought, has neither been revealed, nor has been examined by the prosecution, though he is alleged to be neighbor of respondent. Further, the slip, on which the mobile number is stated to have been sent to victim 'J', has not been taken into possession by prosecution, nor any particulars with regard to the same have been brought on record.

In the facts and circumstances of the case, the ingredients of offence punishable under Section 354D of IPC (stalking) are not made out. The benefit of doubt as such has been rightly extended by the learned Trial Court, acquitting the respondent.

For the foregoing reasons, I do not find any merits in the present Criminal Leave Petition and the same is dismissed. Pending applications, if any, also stand disposed of. Trial Court Record, if received in physical format, be forwarded back to the concerned Trial Court along with copy of this judgment.

ANOOP KUMAR MENDIRATTA, J.

JANUARY 4, 2024/R