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

+ **W.P.(CRL) 2953/2019**

PINKI RANA

..... Petitioner

Through: Mr. Ranbir Singh Kundu,
Mr. Kuldeep S. Rajput and Mr. Amit
Choudhary, Advocates.

versus

STATE

..... Respondent

Through: Ms. Nandita Rao, ASC (Crl.) for the
State with Mr. Jasraj Singh Chhabra
and Mr. Amit Peswani, Advocates.
SI Rekha Chauhan, PS New Ashok
Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **30.01.2024**

1. The present writ petition under Article 226/227 of the Constitution of India seeks following prayers:-

“In light of the above - mentioned facts & circumstances, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

a. Pass appropriate order / directions expunging / setting aside the remarks passed by the Ld. ASJ against the Petitioner herein & the other police officials in Para No. 81, 82 & 84 of the judgment dated 24.09.2019 passed by the court of Sh. Manmohan Singh, Ld. Additional Sessions Judge, Karkardooma Court, Delhi in case titled as State Versus Malkreet Singh;

b. Pass appropriate order / directions expunging / setting aside the directions issued by the Ld. ASJ against the Petitioner herein & the other police officials in Para No. Ill of the judgment dated 24.09.2019 passed by the court of Sh. Manmohan Singh, Ld. Additional Sessions Judge, Karkardooma Court, Delhi in case titled as State Versus Malkreet Singh whereby seeking the initiation of criminal action against the Petitioner & other Police officials involved in the investigation of the aforesaid case FIR;

c. Pass appropriate directions/ orders whereby staying any legal action /



proceeding to be initiated against the Petitioner on the basis of the basis of the directions passed against her by the Ld. ASJ; AND/ OR
(b) Pass any other or further order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

2. The case of the petitioner is that she was the Investigating Officer in case FIR No. 1509/2014, under Section 376 of the IPC, registered at P.S. New Ashok Nagar. On conclusion of the trial in the aforesaid FIR, learned ASJ, while acquitting the accused in the said case, made following observations:

“81. The word '*jabardasti*' is a material word in the context of this case. Consensual sex between two adults is not an offence of rape. Thus, the word '*jabardasti*' at point 'D' in complaint Ex.PW1/A was a very important feature to make it a cognizable offence against the accused Malkeet Singh. For want of the word '*jabardasti*' in complaint Ex.PW1/A no case of a cognizable offence had been made out against the accused Malkeet Singh and at the most a case for a non-cognizable offence u/s 506 of the Indian Penal Code has been disclosed and that too against his son Preet. In that eventuality the maximum that could have been done was to follow the procedure prescribed under section 155 of the Code. No FIR u/s 154 of the Code could have been registered in that circumstance. This gave an occasion for the handiwork viz. interpolating the word '*jabardasti*' at point 'D' in complaint Ex.PW1/A and considering the evidence on record, it has been done at the instance of the police officials, particularly the Investigation Officer SI Pinki Rana, for the obvious reasons. Had it been at the instance of the prosecutrix nothing prevented the scribe or other police officials to get the same authenticated from her under her thumb impression. So it is apparent that the said word has been inserted in the statement after the same has been signed by the prosecutrix and this act of police officials clearly amounts to falsification and forgery of public record.

82. In the cross examination of the Investigation Officer, PW10, she has stated that she came to know of the marital status of the prosecutrix during the course of investigation. PW10 has also admitted that the prosecutrix was living with her husband. In those circumstances, it was incumbent upon her to draw an inference if the prosecutrix was competent to accept any promise of marriage during the life time of her



husband. PW10 has denied in her cross examination that she has not conducted a free and fair investigation. However, the manner in which she has conducted investigation speaks to be contrary. She has proceeded with a preconceived mind set and was obsessed to file a chargesheet against the accused ignoring the facts which have been discovered in -the course of investigation.

84. The charge sheet is totally silent as to any investigation or any finding against the son of the accused namely Preet on the aspect of the allegation of threat appearing against him. This also goes to show that there is something more than what meet the eyes. Ostensibly the Investigation Officer SI Pinki Rana on examining the complaint statement found that there was no case for proceeding under the law got the word 'jabardasti' interpolated and the interpolation is obvious on the face of the record. What is the role of other police officials in the tempering with or falsification of the public record cannot be done by some conjectures here and can be established only by investigation into the same after the registration of an FIR in accordance with the law.

111. In view of my observations on the role of police officials regarding the interpolation of word '*jabardasti*' at point 'D' in complaint-statement Ex. PW1/A which tantamount to manipulating, tempering with and falsification of the official record a criminal action is liable to be launched against the Investigation Officer SI Pinki Rana and other erring police officials in accordance with the law for the offences committed by them by registering an FIR in accordance with' the law. Needless to say, such action under the law shall be in addition to and not in derogation of the departmental action which may be invited in the facts and circumstances of the case."

3. Learned counsel appearing on behalf of the petitioner submits that apart from the fact that the said observations were made without giving an opportunity to the present petitioner of being heard, violating the principle of natural justice, the observations made are also contrary to the facts of the case. It is pointed out that learned ASJ while making the aforesaid observations against the petitioner did not consider the fact that the complaint in the present case was not written by the petitioner herein but by



W/Constable Sumitra. It is a matter of record that the present petitioner did not write the complaint/exhibit (PW-1/A) narrated by the complainant/prosecutrix herein, which is alleged to have been manipulated as per the learned ASJ. The records of the case, it is pointed out, reflects that the said complaint/exhibit (PW-1/A) does not even bear the signatures or any endorsement made by the present petitioner. It is further submitted that learned ASJ while making the aforesaid observations did not appreciate that during the course of the trial, PW-8 i.e., W/Constable Sumitra has stated that she had recorded the complaint on the statement of the prosecutrix in her own hand-writing. It is further submitted that learned ASJ while making the said observation has also did not appreciate the fact that there is no personal motive or agenda to falsely implicate the accused in the said case. It is also a matter of record, it was argued, that the prosecutrix in the said case has supported the case of the prosecution throughout. It was submitted that the observations as made by the learned ASJ will impact the career of the petitioner. Reliance has been placed by learned counsel appearing on behalf of the petitioner on the following judgments:-

- i) Dr. Dilip Kumar Deka & Anr. V. State of Assam & Anr., 1996 AIR SCW 4046.
- ii) State of Madhya Pradesh v. Narmada Bachao Andolan And Anr., (2011) 12 SCC 689.
- iii) Abani Kanti Ray v. State of Orissa & Ors., 1995 SCC Supl. (4) 169: JT 1995 (7) 467.
- iv) State of West Bengal v. Mir Mohammad Omar & Ors., (2000) 8 SCC 234.
- v) State of West Bengal And Ors. v. Babu Chakroborty, AIR 2004 SC



4324.

- vi) Ravinder Kumar Tyagi v. State. 2012 (131) DRJ 353(DB).
- vii) Rakesh Chand & Ors v. State of NCT of Delhi & Ors., MANU/DE/4164/2015.
- viii) Anand Kumar Misra & Ors v. State, Order dated 01.10.2019 Delhi High Court passed in CRL.M.C. 5038/2019.
- ix) Satish Kumar & Anr. V. State (NCT of Delhi), Order dated 26.11.2021, Delhi High Court passed in CRL.M.C. 3013/2021.

4. The status report, authored by SHO, New Ashok Vihar, dated 18.12.2019 filed on behalf of the State records as under:-

“As per the records available on file, the stricture passed by the Ld. Trial Court is uncalled for as PW-8 L/Ct. Sumitra No.1779/NE has clearly deposed that she had written whatever was stated by the prosecutrix and also denied the suggestion of the defence counsel that the word 'jabardasti' was later on added in the complaint and is not in her handwriting. Hence, the stricture and the directions passed by the Ld. Trial Court for registration of FIR and departmental action against SI Pinki Rana (petitioner herein) and other police officials are required to be expunged/set-aside. However, the undersigned is ready to abide by any direction as may be passed by this Hon'ble Court, if any.”

5. Heard learned counsel appearing on behalf of the parties and perused the record.

6. Learned ASJ, as reproduced hereinabove, has made the aforesaid observation that on account of the fact that the word '*jabardasti*' as per him is an interpolation and has been added subsequently. Learned ASJ, with regard to the aforesaid, in para 81, has observed as under:-

“81.This gave an occasion for the handiwork viz. interpolating the word '*jabardasti*' at point 'D' in complaint Ex.PW1/A and considering the evidence on record, it has been done at the instance of the police officials, particularly the Investigation Officer



SI Pinki Rana, for the obvious reasons. Had it been at the instance or prosecutrix nothing prevented the scribe or 'other police officials to get the same authenticated from her under her thumb impression. So it is apparent that the said word has been inserted in the statement after the same has been signed by the prosecutrix and this act of police officials clearly amount to falsification and forgery of public record.”

7. Again, in para 83, learned ASJ records as under:-

“83.Initially the IO got the word ‘jabardasti’ interpolated in Ex.PW1/A and thereafter proceeded with an intention to implicate the accused ignoring the vital facts which she discovered in the course of investigation. The free and fair investigation was only in namesake and not in the reality. It was infact a casualty from the very beginning when the word ‘jabardasti’ was interpolated in Ex.PW1/A.”

8. Similarly, in para 84 it is recorded as under:-

“84.Ostensibly the Investigation Officer SI Pinki Rana on examining the complaint statement found that there was no case for proceeding under the law got the word ‘jabardasti’ interpolated and the interpolation is obvious on the face of the record. What is the role of other police officials in the tempering with or falsification of the public record cannot be done by some conjectures here and can be established only by investigation into the same after the registration of an FIR in accordance with the law.”

9. It has come on record that the aforesaid complaint/exhibit PW-1A was written by PW-8, i.e., W/constable Sumitra and there is no endorsement or signature of the present petitioner on the said complaint. It is an admitted case of the prosecution that the investigation was handed over to the present petitioner after the registration of the FIR. It has also come on record that the prosecutrix in the present case got her statement recorded under Section 164 of the Cr.P.C., wherein she categorically made allegations against the accused therein. It is also the case of the prosecution that the prosecutrix



who was examined as PW-4, during her cross-examination by the learned APP has stated as under:-

“It is correct that I had mentioned in my complaint Ex.PW 1/A that the accused had made illicit forceful physical relations -with-me for six years”

10. Reliance placed by learned ASJ while passing the impugned judgment on the cross-examination of the prosecutrix where she states that her complaint was not read over to her by the police and she also did not know the contents of the complaint cannot be read in isolation. Learned ASJ, while acquitting the accused in the aforesaid case, in para 99 has observed as under:-

“99. PW1 deposed she could not say whether she had disclosed to the learned Magistrate who recorded her statement u/s 164 The Code. She stated that fifteen days prior to lodging of the present case, the accused came to her house and tried to make forcible physical relations with her or that she refused to make physical relations with the accused by saying that since he was not going to marry her so she would not make physical relations with him but the accused forcibly made physical relations with her or that the accused assured her that time also that he would marry her after the marriage of his children. She volunteered to state here that as she was under the pressure of IO SI Pinki Rana, she might not have disclosed this fact to the learned Magistrate. This is contrasted with her admission of the suggestion that she had not lodged any complaint against IO SI Pinki Rana for the pressure created upon her by her. She denied the suggestion that she had not lodged any complaint against IO SI Pinki Rana as she never put her under any pressure at any point of time. Read in totality her version regarding this appears to be false in the facts and circumstances of the case.”

11. The aforesaid observation itself reflects that learned ASJ did not believe the aforesaid testimony of the prosecutrix. The aforesaid testimony of the prosecutrix shows that the latter was not under any pressure from the present petitioner. Perusal of the judgment of acquittal passed by learned



ASJ reflects that the same has been passed on the basis of the contradictory testimony of the prosecutrix during the course of the examination as well as the circumstances brought on record by the defence. Learned ASJ did not believe the testimony of the prosecutrix and consequently, the judgment of acquittal was passed.

12. In view of the above, the present petition is allowed. The observations made by learned ASJ in paras 81, 82, 84 and 111 of the impugned judgment are set aside.

13. The petition is disposed of accordingly.

14. Pending application(s), if any, also stand disposed of.

AMIT SHARMA, J

JANUARY 30, 2024/sn