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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 4253/2025 & CRL.M.A.Nos.18558-59/2025

PP

.....Petitioner

Through: Ms. Sunita Arora,
Advocate from DHCLSC.

versus

THE STATE GOVT. OF NCT OF DELHI
AND ORS.

.....Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Sapna Rana and SI Vinod
Bhati, PS Mehrauli.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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03.07.2025

1. The present petition is filed by the prosecutrix/petitioner challenging the order dated 20.02.2025 (hereafter '**impugned order**'), passed by Special Judge (PC Act), CBI-23 (MPs/MLAs cases), Rouse Avenue Court, New Delhi, in Criminal Appeal No.04/2024 filed by Respondents Nos. 2 and 3 under Section 341 of the Code of Criminal Procedure, 1973 ('**CrPC**') against the order dated 06.03.2024, in Misc. Crl. N. 4/2024.
2. By order dated 06.03.2024, the learned the learned Additional Chief Metropolitan Magistrate ('**ACMM**') had dismissed the application filed by Respondent Nos. 2 and 3 under Section 340 of the CrPC.
3. By the impugned order, the learned Appellate Court set aside order dated 06.03.2024 and specifically noted that the prosecutrix/petitioner had made false allegations against Respondent Nos. 2 and 3 and thereby directed inquiry against her under Section 340 of the CrPC.



4. The brief facts are that on 12.04.2018, the prosecutrix/petitioner received a phone call from Respondent No. 3 asking her to meet him at Roshan Tent House, New Khanna Market, Lodhi Colony, New Delhi at around 6:00 p.m., whereafter, he told her that he would sort the ongoing disputes between the prosecutrix/petitioner and his brother. Respondent No. 3 further stated that she would have to accompany him to a farmhouse in Chhatarpur, where his brother and her wife would also be present.

5. It is alleged that after reaching the said farmhouse, the prosecutrix/petitioner was asked by Respondent No. 3 to switch off her mobile phone, whereafter, he started talking to her. Respondent No. 3 thereafter called a waiter and asked him to bring some eatables and cold drinks for them.

6. It is alleged that after consuming the aforesaid eatables and cold drinks, the prosecutrix/petitioner became unconscious, whereafter, Respondent No. 3 allegedly committed sexual assault on her.

7. It is further alleged that Respondent No. 3 threatened the prosecutrix/petitioner, that he had made video recordings of her indulging in sexual activities and if she tried to make any complaints against the alleged incident, he would circulate the same to tarnish her character.

8. That on 22.04.2018, the prosecutrix/petitioner after recovering from depression from the alleged incident, lodged a complaint against Respondent No. 3 in Police Station Mehrauli, however, the police took no action on the said complaint.

9. Aggrieved, the prosecutrix/petitioner on 21.06.2018 filed a complaint under Section 200 of the CrPC being CT Case No. 8566/2018, along with an application under Section 156(3) of the CrP

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CrPC for registration of FIR to the offences under Section 376/328/120B/506 of the Indian Penal Code, 1860 ('IPC').

10. The learned Metropolitan Magistrate ('MM') pursuant to the compliant made by the prosecutrix/petitioner by order dated 07.07.2018 directed the police to register an FIR.

11. Aggrieved by the order passed by the learned MM, Respondent No. 3 preferred a Revision Petition under Section 397 of the CrPC before the learned Additional Sessions Judge ('ASJ') being Crl. Rev. No. 258/2018.

12. The learned ASJ by order dated 12.07.2018 dismissed the Revision Petition filed by Respondent No. 3, whereafter, he challenged the same before this Court under Section 482 of the CrPC being Crl. M.C. No. 3456/2018. The same was dismissed by this Court *vide* order dated 17.08.2022.

13. Respondent No. 3 further challenged the order of this Court before the Hon'ble Apex Court by filing SLP (Criminal) No. 7653/2022 and the same was dismissed by order dated 16.01.2023.

14. Pursuant to the order registering the FIR being upheld by the Hon'ble Apex Court, the police registered FIR No. 85/2023 dated 21.01.2023, at Police Station Mehrauli under Sections 376/328/506 of the IPC.

15. It is alleged that even after registration of FIR the police did not conduct the investigation in a proper manner. It is further alleged to save Respondent No. 3 the police filed a false cancellation report dated 25.04.2023 before the learned MM.

16. Being aggrieved by the said cancellation report, the prosecutrix/petitioner on 24.04.2023 filed a protest petition being CR No. 10/2023. The learned MM by order dated 10.10.2023 allowed the said protest petition and took cognizance of offences

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under Section 376/328/506 of the IPC.

17. Respondent No. 3 challenged the aforesaid order by filing a Revision Petition before the learned ASJ being Crl. Rev. No. 49/2023. The same was allowed by the learned ASJ by order dated 16.12.2023.

18. The prosecutrix/petitioner aggrieved by the order dated 16.12.2023 filed Criminal Revision before this Court bearing Crl. Rev. No. 342/2024.

19. Subsequently, Respondent Nos. 2 and 3 filed an application under Section 340 of the CrPC before the learned MM, whereafter, the same was dismissed by order 06.03.2024.

20. They challenged the same before the learned ASJ by filing a Criminal Appeal under Section 341 of the CrPC bearing Crl. A. No. 04/2024.

21. This Court by order dated 02.08.2024 dismissed the revision petition filed by the prosecutrix/petitioner. The same was challenged by her before the Hon'ble Apex Court under SLP (Crl) Diary No. 53201/2024. By order dated 06.01.2025 the Hon'ble Apex Court dismissed the aforesaid SLP filed by the prosecutrix/petitioner.

22. The prosecutrix/petitioner being aggrieved by the dismissal of the SLP filed a Review Petition being Diary No. 17054/2025 which is stated to be pending before the Hon'ble Apex Court.

23. Subsequently, the learned ASJ by the impugned order allowed the Criminal Appeal filed by Respondent Nos. 2 and 3 and directed inquiry against the prosecutrix/petitioner under Section 340 of the CrPC for making false allegations against them. The same led to the filing of the present petition.

24. The learned counsel for the prosecutrix/petitioner submits
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the learned ASJ failed to consider that Respondent Nos. 2 and 3 had filed an application under Section 340 of the CrPC in order to harass the prosecutrix/petitioner and the learned MM had rightly dismissed the same.

25. She submits that the prosecutrix/petitioner did not tender any false affidavits or made any false allegations in the complaint under Section 156(3) of the CrPC against Respondent Nos. 2 and 3 and she ought not to be held liable to any kind of inquiry against her.

26. She further submits that the learned ASJ failed to appreciate the fact that the police did not conduct a proper investigation against Respondent No. 3. She submits that the prosecutrix/petitioner had made several complaints against Respondent No. 3, however, no action had been taken by the police regarding the same.

27. I have heard the learned counsel for the prosecutrix/petitioner and perused the record.

Analysis

28. The limited question before this Court is whether the learned ASJ erred by initiating an inquiry against the prosecutrix/petitioner under Section 340 of the CrPC.

29. Section 340 of the CrPC provides for an inquiry and filing of a complaint in case the party is found to have committed offences referred in Section 195(1)(b) of the CrPC, which relates to filing of false evidence in any judicial proceedings. Section 340 of the CrPC reads as under:

“340. Procedure in cases mentioned in section 195.—(1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of Justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that



Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,—

- (a) record a finding to that effect;
 - (b) make a complaint thereof in writing;
 - (c) send it to a Magistrate of the first class having jurisdiction;
 - (d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and
 - (e) bind over any person to appear and give evidence before such Magistrate.
- (2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195.
- (3) A complaint made under this section shall be signed,—
- (a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;
 - [(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.]
- (4) In this section, “Court” has the same meaning as in section 195.”

30. It is not in doubt that in case the prosecutrix/petitioner is found to have committed an offence as defined under Section 195 of the IPC, an appropriate inquiry can be ordered under Section 340 of the CrPC.

31. The Hon’ble Apex Court in the case of **James Kunjwal v. The State of Uttarakhand : 2024 SCC OnLine SC 1943** held that an inquiry under Section 340 of the CrPC should be initiated if it is expedient in the interest of justice. The relevant portion of the judgment is reproduced hereunder:

“16. What we may conclude from a perusal of the above-noticed judicial pronouncements is that:—



(i) The Court should be satisfied *prima facie* opinion that there exists sufficient and reasonable ground to initiate proceedings against the person who has allegedly made a false statement(s);

(ii) Such proceedings should be initiated when doing the same is “expedient in the interests of justice to punish the delinquent” and not merely because of inaccuracy in statements that may be innocent/immateral;

(iii) There should be “deliberate falsehood on a matter of substance”;

(iv) The Court should be satisfied that there is a reasonable foundation for the charge, with distinct evidence and not mere suspicion;

(v) Proceedings should be initiated in exceptional circumstances, for instance, when a party has perjured themselves to beneficial orders from the Court.”

32. In the present case the prosecutrix/petitioner had alleged offences under Section 376/328/506 of the IPC against Respondent No. 3. The said offences are serious in nature.

33. It is argued that the prosecutrix had not tendered any affidavit before the learned MM at the time of filing an application under Section 156(3) of the CrPC. It is trite law that an application filed under Section 156(3) of the CrPC is to be supported by an affidavit [Ref. **Priyanaka Srivastava v. State of Uttar Pradesh : (2015) 6 SCC 287**]. In view of the same, the argument of the petitioner in this regard is unmerited as the complaint under Section 156(3) of the CrPC could not have been filed by the prosecutrix without a supporting affidavit.

34. The learned ASJ in the impugned order has specifically noted that the false affidavits tendered by the prosecutrix/petitioner interfered with the administration of justice.

35. It is pertinent to note that the present case is not one where the prosecution has been unable to prove the allegations against the accused beyond reasonable doubt. Herein, after conducting a



thorough investigation, the police had filed a cancellation report dated 25.04.2023 in FIR No. 85/2023 before the learned MM. The police in the said report specifically noted that the statements of the witnesses recorded during the course of investigation are completely contrary to the version of the prosecutrix, as alleged by her in her statement under Section 161 of the CrPC. It was also found that the prosecutrix/petitioner and Respondent No. 3 were not present at the alleged place of the incident on 12.04.2018. The prosecutrix challenged the aforesaid cancellation report before this Court by way of Criminal Revision bearing Crl Rev. No. 342/2024. This court by order dated 02.08.2024 dismissed the aforesaid petition and observed as under:

“77. In the present case, the overwhelming independent ocular, documentary and scientific evidence collected during the investigations, whereby the presence of the respondent no.2 and complainant on the date of the alleged incident at the place of alleged incident i.e. Sharma Farmhouse is completely ruled out, the possibility of the commission of alleged offence is rendered zilch. Hence, conclusion of the learned Additional Sessions Judge in accepting the Cancellation Report has to be upheld”.

36. The challenge against the aforesaid order was dismissed by the Hon’ble Apex Court, and the same has therefore attained finality. The cancellation report is sufficient for the Court to form a *prima facie* opinion that the petitioner had narrated false facts in her supporting affidavit with the complaint. In such circumstances, considering that the material before the Court suggests that, *prima facie*, the petitioner sought to falsely implicate Respondent No.3 deliberately, it is expedient in the interest of justice that action is initiated in this respect and the same is brought to a logical conclusion.



37. It is pertinent to note that if making of such serious allegations with an oblique motive is not discouraged, then the proceedings before the court will be a way for the parties to settle their personal scores and will interfere with the administration of justice. It is also rightly observed in the impugned order that the allegations made by the prosecutrix could have an adverse effect on the reputation and political career of Respondent No. 3.

38. Therefore, in the opinion of this Court, the learned ASJ by the impugned order had rightly initiated inquiry proceedings against the prosecutrix/petitioner under Section 340 of the CrPC.

39. In view of the aforesaid discussion, I feel no reason to interfere with the impugned order passed by the learned ASJ.

40. The present petition is therefore dismissed. Pending Application(s) if any also stand disposed of.

AMIT MAHAJAN, J

JULY 3, 2025