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

+ **CRL.REV.P. 130/2017 & CRL.M.A. 2450/2017**

STATE

.....Petitioner

Through: Mr.Manoj Pant, APP for the State
along with SI Amit Kumar.

versus

RAMESH KASHYAP

.....Respondent

Through: Ms. Naina Kejriwal Adv.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

% **03.11.2025**

1. By way of the present petition, the State seeks setting aside of the impugned order dated 08.11.2016, passed by the learned Additional Sessions Judge-SFTC, Dwarka Courts, New Delhi, *vide* which the respondent accused has been discharged in FIR bearing no. 379/2016, registered at Police Station South Dwarka, for the commission of offence punishable under Sections 376/354/509/451 of the Indian Penal Code, 1860 (hereafter '*IPC*').

2. Briefly stated the facts of the present case are that the respondent accused was known to the husband of the prosecutrix, while she was staying in Sangam Vihar, Delhi. It is alleged that the respondent accused used to consume liquor with the husband of the prosecutrix. It is further stated that as the prosecutrix was being harassed by the respondent accused, the prosecutrix along with her husband shifted to Dwarka; the respondent accused continued to visit her house and, on several occasions, he had



attempted to commit rape upon the prosecutrix. It is further the case of the prosecution that while the prosecutrix was staying in Dwarka, her husband had been away from the house for the last about one and a half year. During his absence, the respondent accused had visited her house and had committed rape upon her. On 09.06.2016, the respondent accused had again committed rape upon the prosecutrix and had also threatened her with dire consequences. During the course of investigation, the prosecutrix was medically examined at DDU Hospital, New Delhi on 22.6.2016. Her statement under Section 164 of the Code of Criminal Procedure, 1973 (hereafter '*Cr.PC*') was recorded on 23.6.2016, wherein she alleged that on 09.06.2016, the respondent accused had forcibly established physical relations with her. After investigation charge-sheet was filed against the respondent accused for the offences punishable under Section 376/354/509/506/451 IPC. However, *vide* the impugned order dated 08.11.2016, the respondent accused was discharged by the learned Trial Court for the aforesaid offences. The present petition has been filed on behalf of the State, assailing the said order.

3. This Court has **heard** arguments addressed by the Learned Counsel of the applicant/accused and Learned APP for the state and has perused the material on record.

4. The learned APP for the State does not dispute that the prosecutrix was examined at the Hospital on 22.06.2016. It is noted that she had not only refused to undergo her internal medical examination but also stated before the Doctor that she did not want any rape case to be registered against the respondent accused. Admittedly, the prosecutrix and the respondent accused were in consensual relationship, understanding the fact that they



were married to different persons. Further, it is noted that the DD No. 14, which was registered on 17.06.2016, does not mention that she had been raped by the respondent accused.

5. This Court further notes that the prosecutrix had also given a statement before the concerned Investigating Officer on 17.06.2016, wherein she did not level any allegation of rape or attempt of rape against the present accused. The prosecutrix herself stated that she was staying with the respondent accused for the last eight year, though she was married to another person and the respondent accused was married to another woman. It is therefore clear from the statement of the prosecutrix dated 17.06.2016 that she does not want any rape case to be registered against the respondent accused.

6. Keeping in view the aforesaid facts and circumstances, no case for commission of offence under Sections 376/354/509/451 of the IPC is made out against the respondent accused. The impugned order is a well-reasoned order. Thus, this Court does not find any illegality or perversity in the impugned order dated 08.11.2016, passed by the learned Trial Court.

7. The petition is without any merit. It is accordingly dismissed. Pending application, if any, also stands disposed of.

8. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

NOVEMBER 03, 2025/A