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

+ **CRL.L.P. 859/2018**

STATE

.....Petitioner

Through: Mr. Aashneet Singh, APP with Insp.
Deepak, SI Narender Kumar, PS
Sultanpuri

versus

DHARMENDER @ SONU

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

27.02.2025

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1. This is a leave to appeal seeking to challenge the order dated 05.10.2018 passed by the learned MM (North West), Rohini Courts, Delhi in Case No. R-533331/2016 in the case FIR No. 56/2013 registered at PS Sultanpur under Sections 363 IPC.
2. The facts are that on 19.01.2013 at about 6 AM, the daughter of PW-2 (Jichho Das/complainant) went to school but she did not return. Hence, the complaint was made to the police u/s 363 IPC.
3. After lodging the complaint, when the complainant came back, he found his daughter at home and on inquiry his daughter stated that the respondent by intimidating her had taken her to a house and subsequently he dropped her at a place from where she came home.
4. The victim, PW-3 who was 16 years old minor girl, deposed that due



to the force and threat exerted by the respondent she went along with him.

5. The prosecution examined 8 witnesses. Charges were framed under Sections 363/506 IPC on 31.01.2015.

6. The respondent pleaded not guilty and claimed trial.

7. The learned MM in para 18 of the judgment dated 05.10.2018 held as under:

“18. Further, there are contradictory versions of PW-3, each time when her statement was being recorded i.e. during inquiry as well as during trial. During the course of her examination in chief, PW-3 deposed that the accused is jija of her friend Ruby and he used to call her on her mobile phone and forced her for outing and conversation and during the course of conversation, he used to threaten her, so as to kill her as well as her family members. She deposed that due to the said threat extended by the accused, she went with the accused and when the accused came to know about the complaint made by her family, he left her. She deposed that the accused dropped her to her house and her mother took her to the police station, where she narrated the entire incident. She deposed that the police official arrested the accused vide arrest memo Ex. PW-3/A, bearing her signatures at point A and her statement u/s 164 Cr. P.C, Mark A was also being recorded. During the course of her examination by Ld. APP for the State, she admitted that the police had recorded her statement Mark X but, during the course of her cross-examination by Ld. Counsel for the accused, she deposed that she had not given phone number of the accused to the police official, in contradiction to her statement Mark X, where it was so



written. She further contradicted from her stand and deposed that police had not arrest the accused in her presence thus, there is no question of arrest memo Ex. PW-3/A, bearing her signatures, as deposed by her in her examination in chief. Further, in her statement u/s 164 Cr. P.C, Mark X, she deposed that she came back to her house on her own, as she was dropped to some distance by the landlord of the accused, whom the prosecution had examined as PW-5. But, PW-5 deposed that when she had left PW-3 at Railway Line, the accused was also with her. The accused has been further able to elicit contradictions from her evidence. In her statement Mark X, she deposed that the accused threatened her that if she will not go along with him, he will disclose to his family members that they were having telephonic conversations for past 10-15 days and she admitted giving such statement during the course of her cross examination by Ld. Counsel for the accused but, during the course of her examination in chief, she deposed that the accused threatened to kill her as well as her family members and on such threat, she went with the accused and further during the course of her statement u/s 164 Cr. P.C, Mark A, she stated that the accused threatened her that he will apprehend her some day and then kill her. Thus, there are several material contradictions in the testimony of prosecution's witnesses, which shows that they are not reliable witnesses and on the strength of the testimony of PW-2 and PW-3, which are contradictory to each other, the case of the prosecution cannot be said to be proved beyond reasonable doubt. The accused Dharmender @ Sonu is accordingly acquitted of the offence under



Sections 363/506 IPC.”

8. Mr. Singh, learned APP states that the testimony of the father and the victim is clear, cogent and supports the case of the prosecution and hence case for grant of leave to appeal.

9. I am of the view that the learned MM has correctly appreciated the contradictions in the testimony of PW-3 i.e. the victim.

10. In her examination in chief, PW-3 stated that the respondent is the jija of her friend Ruby and he used to call her on her mobile phone and forced her for outing and conversation and during the course of conversation, he used to threaten her, so as to kill her as well as her family members. She stated that it was for this reason that she went with the accused.

11. In her cross-examination, she further deposed that that she had not given mobile phone number of the accused to police official which is in contradiction to her earlier statement.

12. She also deposed that the accused dropped her to her house and her mother took her to the police station, where she narrated the entire incident.

13. However, in her statement under Section 164 of the Cr.P.C., she stated that she came back to her house on her own and she was dropped at some distance by the landlord of the accused (PW-5).

14. Also, PW-5 deposed that he had left PW-3 at a railway line and the respondent was also with her.

15. Additionally, there are also contradictions regarding the conversation the respondent had with the victim in her statement made under Section 161 Cr.P.C. (mark X) that the accused threatened her that if she will not go with him, he will disclose that she was having telephonic conversation with him for the last 10 to 15 days.



16. I am of the view that the contradictions have been well appreciated by the learned MM and there is no infirmity or illegality in the judgment dated 05.10.2018 passed by the learned MM.

17. The learned MM appreciated the contradictions in the testimony of PW-2 & PW-3 and correctly held that the prosecution has not been able to prove its case beyond reasonable doubt. Resultantly, benefit of doubt has correctly been granted to the respondent.

18. For the said reasons, leave to appeal is declined.

19. Consequently, the appeal has become infructuous and is dismissed.

JASMEET SINGH, J

FEBRUARY 27, 2025/DM

[Click here to check corrigendum, if any](#)