
(2015) 09 DEL CK 0298
In the Delhi High Court
Case No : Criminal M.C. 272/2015

Madhvi Arora

APPELLANT

Vs

State (NCT of Delhi) and Others

RESPONDENT

Date of Decision : 22-09-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 482
Penal Code, 1860 (IPC) — Section 376, 452, 506

Citation : (2015) 09 DEL CK 0298

Hon'ble Judges : S.P. Garg, J.

Bench : Single Bench

Advocate : Ritesh Bahri, Randeep K.Rehan, Dhan Mohan and Ashish Gaur,
Advocates, for the Appellant; Amit Ahlawat, APP, for the Respondent

Final Decision : Dismissed

Judgement

S.P. Garg, J.—Present petition under Section 482 Cr.P.C. has been preferred by the petitioner for quashing of order dated 22.09.2014 of learned Addl. Sessions Judge in CrI.Rev.No.28/14 by which order dated 16.03.2013 of Learned Metropolitan Magistrate dismissing the complaint under Section 200 Cr.P.C. was upheld.

2. I have the learned counsel for the petitioner and have examined the file. The petitioner had filed complaint case under Section 200 Cr.P.C. on 14.07.2006 to initiate proceedings under Sections 376/506/452 IPC against respondent No. 2. It was averred in the complaint that in September, 2002 when petitioner's husband and brother-in-law were lodged in Tihar Jail, the respondent No. 2 who lived at 162, village Dheerpur, Delhi and was posted as Head Constable in Delhi Police approached her to assist their release. He demanded physical favour from her. However, on her raising alarm, the respondent No. 2 fled the spot. After two or three days at around 01.00 a.m., the respondent No. 2 again came at her house on the pretext to deliver urgent message. After gaining entry in the house, respondent No. 2 criminally intimidated her and committed rape upon her. The

complainant further alleged that subsequent to release of her husband from jail, the respondent No. 2 continued to commit rape upon her against her wishes after black-mailing her. She apprised her husband about the sexual assault and when he confronted the respondent No. 2, he was also threatened. The petitioner was forced to shift her residence to 207, Nirankari Colony, Delhi, in May, 2006. However, the respondent No. 2 continued to follow her there also. On 07.07.2006, the respondent No. 2 made a telephone call from his mobile No. 9873432422 to the mobile of her tenant - Deepak at 9891153100 and insisted her to meet him on that night. She brought it to the notice of her husband, brother-in-law and they all approached PS Mukherjee Nagar at around 11.00 to 11.30 pm. The police, however, did not take any action. Hence the complaint.

3. The complainant examined herself as CW-2 besides examining CW-1 (DeePak Arora), CW-3 (Bharat Bhushan), CW-4 (Jayanti Mala) and CW-5 (Rajeev) in her pre-summoning evidence. After hearing the contentions and on appreciation of the evidence, the Trial Court dismissed the complaint case. The petitioner challenged it by filing Crl.Rev.No.28/14 which was dismissed on 22.09.2014. Aggrieved by the said orders, the instant petition has been filed.

4. The story put forward by the prosecutrix in her complaint is unbelievable and improbable. The petitioner was conspicuously evasive to disclose if both the parties were acquainted with each other since long and they lived as neighbours in the same village. The occurrence took place in September, 2006. Allegedly, the prosecutrix was ravished on number of occasions thereafter, however, at no stage, the prosecutrix or her family members bothered to lodge any complaint with the police. No Panchayat was ever organised. No complaint at 100 was made. In the pre- summoning evidence, the complainant did not examine any independent public witness to prove that she was sexually assaulted by the respondent No. 2. Inordinate delay of six years in lodging the complaint has remained unexplained. The petitioner and her family members who were quick to lodge various comprehensive written complaints to different authorities on 08.07.2006 were not expected to remain mum for long six years and to suffer the atrocities of the respondent No. 2. in silence. Once the prosecutrix had become suspicious of the conduct and the attitude of the respondent No. 2 on the day in September, 2006 when he had demanded physical favour from her, she had no occasion to permit his entry inside her house at odd hours after a few days. Nothing has come on record to show if the prosecutrix resisted the sexual assault of the respondent No. 2 or suffered any injury on her body. She did not get herself medically examined. It is unbelievable that the respondent No. 2 would dare to enter inside the house of the petitioner at 11.00 to 11.30 p.m. to commit rape when her children were present in the house. No alarm was raised by the prosecutrix even after the departure of the respondent No. 2 from the scene.

5. It is apt to note that on the complaint lodged by the prosecutrix, a detailed enquiry was conducted by Insp.Shyama Pant, Addl. SHO PS Mukherjee Nagar,

Delhi. She examined number of independent public witnesses in the said enquiry and came to the conclusion that the complaint was motivated and no such incident as alleged had taken place. Petitioner's husband and other family members were involved in number of criminal cases. The enquiry officer further found that there was money transaction between the parties and when a complaint was lodged vide Daily Diary (DD) No. 75B at PS Mukherjee Nagar by the respondent No. 2 regarding the presence of some ante-social elements at his residence, the instant complaint case was filed.

6. Allegations levelled by the petitioner are vague and uncertain. No specific dates have been mentioned when the respondent No. 2 committed rape upon her. The Courts below have dealt with all the relevant contentions minutely and have given cogent reasons not to entertain the complaint case of the petitioner. I find no illegality or material irregularity in the impugned orders to intervene.

7. The petition lacks merit and is dismissed.