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

+ W.P.(CRL) 1909/2020

PRIYANKA JAGGI

..... Petitioner

Through: Mr. U. M. Tripathi and Mr. Abhishek,
Advocates

versus

THE STATE OF N.C.T. DELHI AND OTHERS Respondents

Through: Ms. Nandita Rao, ASC for State with
SI Isha Singh, P. S. Rajouri Garden
Mr. Shivankar Mehrotra, proxy
counsel for R-2 & R-3

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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29.03.2022

1. The instant petition has been filed on behalf of the petitioner seeking following reliefs:

"i) To issue writ of Mandamus or some other suitable writ in the light of the facts and circumstances as mentioned above, directing the respondent No. 2 to monitor the investigation at his own and to supervise the investigation carried out by the Investigating Officer to meet the end of justice and to secure due diligence and caution is being taken the investigating officer to collect the material evidence in respect of the case FIR 164/2019 lodged at P.S. Rajouri Garden, Delhi registered U/s 323/354/354B/509 IPC added Section 376(2) IPC, in the interest of justice;

ii) It is further prayed that a Writ of Mandamus be issued against the investigation officer through SHO P.S. Kirti Nagar,

Delhi to arrest the accused persons and to collect the material evidence i.e. Mobile phone, electronic device and photographs in the possession of the culprits for delivering the material justice;

iii) It is further prayed that the respondent No. 2 and 3 be directed to complete the investigation within stipulated period at an earliest, in the interest of justice;"

2. The statement of prosecutrix under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter "Cr.P.C.") has been supplied to this Court and the same has been perused.

3. After perusal of the statement of prosecutrix under Section 164 of the Cr.P.C. which is recorded just after one day of lodging the FIR i.e. 29th April, 2019, this Court finds that there are specific allegations against the accused person for offence punishable under Section 376 of the Indian Penal Code, 1860. It is also alleged in the statement that some photographs were taken by the accused from his mobile.

4. Ms. Nandita Rao, learned ASC for the State submitted that the chargesheet was filed but the mobile phone has not been recovered or seized by the Investigating Officer. The MLC has not been conducted as per the allegations made in the statement of prosecutrix under Section 164 of the Cr. P.C.

5. Learned ASC for the State informed the Court that the second MLC has been conducted on 20th September, 2020 after one year by the second Investigating Officer. It is also informed that the first Investigating Officer, who had investigated the entire matter, had not prepared the site plan of the crime scene and the second investigating officer had prepared the site plan of the crime scene.

6. Learned ASC for the State submitted that now the third Investigating Officer is investigating the entire matter and the mobile phone has been recovered from the accused, however, the recovered mobile phone is not the original mobile phone from which the alleged photographs and videos were made at the time of the incident.
7. Heard learned counsel for the parties and perused the record.
8. After perusing the statement of prosecutrix and considering the submissions advanced by the learned counsel for the parties, this Court is of the view that there is a serious fault in the investigation. The Police Department/Investigating Agency has not investigated the matter properly which involved heinous crime against the women where it has been clearly alleged in the statement of prosecutrix that she was subjected to rape and also clearly stated that the photographs and videos were made by the accused.
9. In view of the above fact and circumstances, this Court is directing the Deputy Commissioner of Police, West District to file personal affidavit within three weeks.
10. List on 28th April, 2022.

CHANDRA DHARI SINGH, J

MARCH 29, 2022
gs/ms