

S.C. NO.758/18.

STATE VS SANJAY KUMAR JHA AND ORS.

FIR NO.226/17.

PS- MODEL TOWN.

13.01.2020

Present: Sh. V.K. Negi, Ld. Addl. PP for the State.

All three accused persons on bail and present in person.

Shri Rakesh Beniwal, ld. counsel for all three accused.

1. This order shall decide if any charge is made out against any of the accused or not.

2. Ld. counsel for accused persons argued that no charge u/s. 376 IPC is made because the prosecutrix did not state in complaint or any of her statement that there was insertion of penis or other parts in her private part. He further submitted that there is no offence under section 120-B IPC is made out against any of the accused.

On the other hand, ld. addl. PP argued that it has been mentioned in the complaint and statement u/s. 164 Cr.P.C. of victim that accused had inserted his hands in the undergarments of the victim. So, allegation of fingering are there. He further submitted that the victim was called by one of the accused Dibyajyoti Dass to her house so that she might be forced to drink liquor and under that influence, she may be raped by her friends.

3. As per the complaints and statement u/s. 164 Cr.P.C., the victim and accused persons are known to each other. Accused Sanjay Kumar Jha, Dibyajyoti Dass and victim were classmates in Department of Social Science, Delhi University at some point of time and accused Ajay Yadav was their immediate junior. The victim had cleared the JRF and all wanted to celebrate that occasion. She went to the house of Dibyajyoti Dass for that celebration.

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It was in the knowledge of the victim that Ajay Kumar Yadav would also be attending the party in the house of Dibyajyoti Dass. Accused Sanjay Kumar Jha was invited by accused Dibyajyoti Dass and the victim was surprised by that invitation.

As per statement u/s. 164 Cr.P.C., the accused Sanjay Kumar Jha had inserted his hand in the undergarments of the victim. It is next mentioned in the statement that he removed her upper clothes but lower clothes were intact. He was masturbating while caressing her body. All these facts do not amount to insertion of any body part in the private parts of the victim. Hence, rape charge is not made out.

4. Perusal of statement of the prosecutrix, statement of other PWs u/s. 161 Cr.P.C. and other material on record show that prima facie case is made out against accused Sanjay Kumar Jha punishable u/s. 328/354/354-B/323 IPC.

Prima facie case is also made out against accused Ajay Kumar Yadav punishable under section 354/509 IPC.

Prima facie case is also made out against accused Dibyajyoti Dass punishable u/s. 109 r/w sections 328/354/509 IPC.

5. Accordingly, charges have been framed against all three accused to which they pleaded not guilty and claimed trial.

Put up on 15.05.2020 for PE.

Let the prosecutrix be summoned through IO for next date.

(Umed Singh Grewal)  
ASJ : Spl. FTC (North)  
Rohini Courts : Delhi:13.01.2020