



\$~5, 7 & 9

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

+ CRL.A. 713/2017

ASHWINI AGGARWAL

..... Appellant

Through: Ms. Geeta Luthra, Sr. Adv with Ms.
Shivani Luthra Lohiya and Mr. Nitin
Sahuja, Adv

versus

THE STATE

..... Respondent

Through: Mr. Rajat Katyal, APP
Ms. Aishwarya Rao, Adv. for the
complainant

+ CRL.A. 721/2017

LAKHVINDER SINGH @ BITTU

..... Appellant

Through: Ms. Geeta Luthra, Sr. Adv with Ms.
Shivani Luthra Lohiya and Mr. Nitin
Sahuja, Adv

versus

STATE

..... Respondent

Through: Mr. Rajat Katyal, APP
Ms. Aishwarya Rao, Adv. for the
complainant

+ CRL.A. 725/2017

RAJEEV GUPTA & ORS

..... Appellant

Through: Ms. Geeta Luthra, Sr. Adv with Ms.
Shivani Luthra Lohiya and Mr. Nitin
Sahuja, Adv

versus

THE STATE

..... Respondent

Through: Mr. Rajat Katyal, APP
Ms. Aishwarya Rao, Adv. for the
complainant



CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE P.S.TEJI

ORDER
09.05.2018

%

CRL.M.(BAIL) 1323/2017 & CRL.M.A.5100/2018 in Crl A No.713/2017
CRL.M.(BAIL) 1331/2017 & CRL.M.A. 4894/2018 in CRL.A.-721/2017
CRL.M.(BAIL) 1334/2017 & CRL.M.A. 5092/2018 in CRL.A.-725/2017

1. We have heard learned senior counsel Ms. Luthra for the appellants as well as Mr. Katyal, the learned APP and Ms. Rao, Advocate for the complainant at some length.
2. The sum and substance of submission of Ms. Luthra is that the present is a case of false implication by the prosecutrix, who is the daughter of one of the appellants, namely, Chaman Lal. The other appellants are the neighbours in the locality and some of them are otherwise connected through their acquaintance with the Baba Satender Patwari @ Satender Nath of Punjab.
3. The background of the case, as per the appellants, is that the appellant Chaman Lal, his family and the other appellants and their family members were under the influence of the said Baba. The influence was so strong that the appellant Chaman Lal transferred two of his properties to the said Baba. Not only that, his family members including the prosecutrix were regularly visiting him under his influence. When the appellants including Chaman Lal came to their senses and realised that the Baba was a fraud, they sought to recover their properties. According to the appellants, by then it was too



late since they had lost the prosecutrix to the Baba. An altercation took place in June 2006 at the residence of Chaman Lal, which led to the calling of police by Chaman Lal and execution of a settlement on 24.06.2006 between Chaman Lal and the Baba – to which the prosecutrix was also a signatory (whereunder the Baba had agreed to return some of the properties to the appellant Chaman Lal). Thereafter, the false FIR came to be registered in July 2006.

4. Ms. Luthra has also referred to the statement of the prosecutrix recorded under Section 161 Cr PC on 06.09.2006 in the present case, which narrates the circumstances under which the statement of 24.06.2006 was arrived at. We may observe that the prosecutrix while recording her statement in the present case has denied having given the said statement.

5. Ms. Luthra has pointed out that the prosecutrix has continued to maintain her relationship with the Baba, who stands convicted under Section 302 IPC in a case involving the murder of one NRI woman. She points out from the additional evidence recorded under the orders of this court that the prosecutrix has visited the said Baba nearly 28 times in 2016-17. Our attention has also been drawn to the statement given by the prosecutrix before the Magistrate that she had lodged a false complaint under Section 376 against the appellants under the influence of the Baba. After the said Baba was arrested in the murder case in 2009, the prosecutrix had voluntarily made a statement that she would go with her mother, which defies reason and is not consistent with the natural course of human conduct, if the parents of the prosecutrix had been responsible for the rape of the prosecutrix in the year 2006. At this stage itself, we may observe that the



prosecutrix claims to have preferred a writ petition before the Punjab & Haryana High Court, with the plea that the said statement was recorded before the learned Magistrate under the influence of the police. However, in pursuance of those proceedings, till date, there is no finding returned by any court to the effect that the said statement was made under force or coercion.

6. Considering the aforesaid circumstances, and the fact that a serious allegation has been made by the prosecutrix against her own parents and others who were inimical towards the Baba, under whose influence the prosecutrix allegedly was and continues to be, and the fact that the appeal is likely to take some time for hearing, we are inclined to suspend the sentence of the appellants during the pendency of the appeal.

7. Accordingly, we suspend the sentence of the appellants and release them on bail upon their furnishing their respective personal bonds with one surety each in the sum of Rs.50,000/- to the satisfaction of the Trial Court. The appellants shall not contact the prosecutrix or any of the other witnesses in the case or tamper with the evidence.

8. The applications stand disposed of in the aforesaid terms.

9. Order Dasti under the signatures of the Court Master.

Crl A No.713/2017, CRL.A.-721/2017 & CRL.A.-725/2017

Ms. Luthra points out that the compilation as prepared by the registry is not complete since some of the exhibited documents had not been placed in the compilation. She may provide the list of all such documents to the registry. The registry shall check the position and prepare another volume of the said



missing documents.

List the appeal for hearing in its due course.

VIPIN SANGHI, J

P.S.TEJI, J

MAY 09, 2018

sr