

ITEM NO.46

COURT NO.12

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 2696/2016

(Arising out of impugned final judgment and order dated 01/03/2016
in BA No. 2280/2014 passed by the High Court Of Delhi At New Delhi)

RAM PHAL

Petitioner(s)

VERSUS

STATE (NCT OF DELHI)

Respondent(s)

(with interim relief and office report)

Date : 02/05/2016 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE R.K. AGRAWALFor Petitioner(s) Mr. Amarjit Singh Bedi, Adv.
Mr. Varun Chandiook, Adv.
Mr. Sidhant Gautam, Adv.
Mr. Paurish Kumar, Adv.For Respondent(s) Mr. R.K. Rathore, Adv.
Mr. D.S. Mehra, Adv.UPON hearing the counsel the Court made the following
O R D E R

The Petitioner had filed an application for anticipatory bail in the High Court in which order dated 16.10.2014 was passed granting interim protection while issuing notice in the said application. From the perusal of the said order, it gets revealed that the High Court considered the fact that in the first version that was given by the complainant on 29.9.2014, there was no allegation of rape. No such allegation was made by the complainant even in her statement recorded under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.').

Her MLC noted no bruises or any other kind of external injury. However, thereafter when the matter came up for final hearing on March 1, 2016, the High Court has finally dismissed the petition for anticipatory bail with the observation that in her statement on 29.09.2014 under Section 164 Cr.P.C., the complainant had leveled the allegations of commission of rape. In fact, this observation of the High Court is contrary to the record inasmuch as there is no allegation of rape in her statement under Section 164 Cr.P.C.

At the same time, we find that in her statement under Section 164 Cr.P.C., she categorically stated as follows:

"I used to beg in Kalkaji Mandir since 5 years. About 12.00 PM yesterday night line was already made since morning, there was some crowd and temple gates were closing. I slept in front of No. 7 Dharamshala. The Dharamshala person has told to me that you do not sleep here as our persons have visited here. He brought me inside the Dharmshala after holding hand and show me the place where I have to sleep. I put carpet and sleep along with my daughter. I as on fast then I got sleep. After some time I felt someone's hand and putting up my paticot and Sari. I clutch the hand and I woke up. I asked that what you are doing then he said nothing. I recognized the voice that the voice is same as the Dharamshala person."

In view thereof, we are not inclined to grant anticipatory bail. At the same time, if the petitioner surrenders and then moves an application for regular bail, the same shall be considered forthwith, in accordance with law.

The Special Leave Petition is dismissed.

Interlocutory application(s) pending, if any, shall stand disposed of accordingly.

(Ashwani Thakur)
COURT MASTER

(Tapan Kr. Chakraborty)
COURT MASTER