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

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Date of Decision: 14.05.2025

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CRL.M.C. 3376/2025 & CRL.M.A. 14854/2025

NXXXX XXXXX

.....Petitioner

Through: Mr. Shyam Arora, Advocate

versus

STATE (NCT OF DELHI) & ANR.

.....Respondents

Through: Mr. Nawal Kishore Jha, APP for State
with W/SI Sangam Yadav, PS Mayur
Vihar

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. It is considered necessary, so the prayer clause of the present petition is extracted below:

“1) Pass appropriate order/direction to the respondent No.1 to conduct a further and fair investigation and take appropriate decisions by law as expeditiously as possible, or transfer the investigation of the complaint to any other independent agency for committing the offence by the Respondent No. 2.

2) To set aside the Impugned Judgement/ Order vide dated 02.12.2024 passed by The Ld. ASJ, Swati Katiyar (Special FTC) East, KKD Courts, New Delhi in Cr. Rev. P. No. 332/23 Under Section 397 of CrPC in FIR No. 209/2023 frivolous and vexatious dismissal of Protest Petition against Police Report Under Section 173, CrPC, 1973.

3) Pass any such other and further relief(s) or order as the Court may deem fit and proper, considering the facts and circumstances of the present case”.



2. At the outset, learned counsel for petitioner submits that he does not press for prayer clause (2). Therefore, prayer clause (2) is dropped.

3. I have heard learned counsel for petitioner.

4. It is the admitted position that on a complaint lodged by the petitioner, FIR No. 209/2023 of PS Mayur Vihar, Phase-I, Delhi for offence under Section 376 IPC was registered and after investigation, chargesheet for offence under Section 376/377 IPC was filed against the present respondent no. 2. The present petitioner, being complainant *de facto* filed a protest petition, which was dismissed by the magisterial court vide order dated 06.11.2023. The said order dated 06.11.2023 was assailed by the present petitioner through revision petition under Section 397 CrPC. Vide order dated 02.12.2024, the said revision petition was dismissed by the court of learned Additional Sessions Judge. As mentioned above, the petitioner opts not to challenge order dated 02.12.2024.

5. On being called upon to address in view of lack of specificity of the prayer clause, learned counsel for petitioner submitted that the only prayer is for directions to the Investigating Officer to fairly investigate the case since he has not examined certain important witnesses and has not seized mobile phone of the present respondent no. 2.



6. It appears that the FIR No. 209/2023 was registered by the local police on the basis of complaint of the present petitioner, alleging that the present respondent no. 2 met her on 14.12.2021 and they developed friendship which followed a love affair and subsequently on the basis of a false promise to marry, the present respondent no. 2 established physical relations with her on multiple occasions, but finally he refused to marry her.

7. As reflected from detailed judgment of the learned revisional court, the real grievance of the petitioner under the garb of seeking “fair investigation” is that the Investigating Officer instead of arresting the present respondent no. 2 gave him notice under Section 41A CrPC to join the investigation. In the revisional judgment, the learned Additional Sessions Judge has elucidated the legal position on this issue, taking note of the fact that the allegations of the alleged sexual assault pertain to the period from July 2022 to 08.02.2023, while the complaint was lodged on 15.05.2023 and upon service of notice under Section 41A CrPC, the present respondent no.2 joined the investigation and cooperated with the same so he was bound down and not arrested.

8. Not only this, it also appears from record that the present respondent no. 2 applied for grant of anticipatory bail and after hearing both sides including the present petitioner, the learned Court of Sessions granted anticipatory bail to the present respondent no. 2. That being so, the



grievance of the petitioner as regards decision of the Investigating Officer not to arrest the respondent no. 2 pales into insignificance.

9. Even the contention of learned counsel for petitioner that the Investigating Officer did not examine certain witnesses was considered and elaborately discussed by the revisional court, observing that the petitioner failed to mention role of those witnesses in the alleged incidents of rape; and rather in her statement under Section 164 CrPC, the petitioner stated that out of shame, she did not disclose about the incidents to her mother also.

10. Similarly, contention of learned counsel for petitioner that the Investigating Officer did not seize mobile phone of respondent no. 2 containing Whatsapp chats, pictures and call recordings was considered and elaborately discussed by the revisional court observing that in her complaint and statement under Section 164 CrPC, the petitioner did not allege that respondent no. 2 was in possession of any such photographs, videos or any other objectionable material.

11. The learned revisional court discussed threadbare all contentions of the petitioner on the basis whereof she had filed a protest petition, which got dismissed. To reiterate, the petitioner opts not to challenge the said order of the revisional court.



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12. In the above backdrop, the only prayer of petitioner is for directions to the Investigating Officer to conduct further and fair investigation. I find no reason to invoke inherent powers to issue any such directions. Remedy for the petitioner lies elsewhere.

13. The petition along with accompanying application stand dismissed.

**GIRISH KATHPALIA
(JUDGE)**

MAY 14, 2025

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