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

+ CRL.L.P. 817/2018

SMT. RITU @ SHIKHA KASHYAP Petitioner
Through: Mr. Sanjay Kumar and Mr. Nitin
Sharma, Advocates.

versus

STATE & ANR. Respondents
Through: Mr. Amit Gupta, APP for State with
W/SI Vinod Kapoor P.S. Vasant Vihar.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **11.12.2018**

1. The present criminal leave petition has been filed by the petitioner against the judgment dated 09.10.2018, passed by learned ASJ in SC No. 9625/16, arising out of FIR No. 629/2016, P.S. Vasant Vihar registered under Sections 376/506 IPC. Under the impugned judgment, after examining the evidence brought on record, the learned ASJ has arrived at the conclusion that the deposition of the petitioner/prosecutrix is insufficient to hold that the accused had any *malafide* intentions of not marrying her or that he had established a physical relationship with her on the false promise of marrying her or that he had threatened to kill her. As a result, the respondent No.2 has been acquitted of all the offences for which he had faced trial.
2. Aggrieved by the aforesaid judgment, the prosecutrix has filed the present petition.
3. Learned counsel for the petitioner assails the impugned judgment on

the ground that the learned trial court has failed to appreciate that the respondent No.2 had threatened the prosecutrix by making false promise to marry her and by establishing a physical relationship with her without her consent and wishes; that there was sufficient evidence on record to show that the respondent No.2 had cheated and committed a fraud on the petitioner and her deposition was sufficient to hold him guilty of the offence for which he had been charged; that the trial court has placed unnecessary reliance on the chats on Whatsapp, thereby overlooking the conduct of the respondent No.2.

4. On carefully perusing the impugned judgment and after hearing the counsel for the petitioner, we are of the opinion that the trial court has not committed any error in acquitting the respondent No.2. The printout of the chats and the transcription of the telephonic conversation between the petitioner and the respondent No.2 placed on record by the defence and duly admitted by the petitioner during her cross examination amply demonstrate that she had of her own free will and without any inducement from the respondent No.2, consented for a physical relationship with him. Thereafter, she had second thoughts about marrying him and had in fact told him that she can get married to him only after her elder sister gets married. Later on, the petitioner had threatened the respondent No.2 that she will defame him and falsely implicate him.

5. The fact that the petitioner had been threatening the respondent No.2 has clearly comes out in her cross examination. The telephonic conversations supplied by the respondent No.2 to the IO were duly transcribed by the forensic expert at Jaipur. During her cross examination, the petitioner was confronted with the said transcription of the telephonic

conversations and she had admitted that the same were true and correct. The only explanation sought to be offered by her was that she had threatened the respondent No.2 out of her anger, when she came to know that the respondent No.2's brother had informed her sister about the physical relationship established between the parties and once her family members came to know about it, she felt ashamed.

6. The trial court has also highlighted the fact that there was not a single instance where the respondent No.2 had extended any threats or demanded any dowry from the petitioner. On the other hand, it was the petitioner who had been extending threats to the respondent No.2. Had the respondent No.2 really threatened the petitioner, surely she would have mentioned the said fact to her family members. The petitioner's assertions ring untrue particularly, when the respondent No.2 had repeatedly informed her that his family members had expressed their readiness to conduct a simple wedding in the Court.

7. Given the aforesaid facts and circumstances, we do not see any reason to interfere in the impugned judgment. Accordingly, leave, as prayed for, is declined and the petition is dismissed.

HIMA KOHLI, J

MANOJ KUMAR OHRI, J

DECEMBER 11, 2018

ap/sk