

Rekha Vs. State & Ors.

CR No. 202/20

Fresh revision petition received by way of assignment. It be checked and registered.

17.08.2020

The matter is taken up on V C through Cisco Webex at 3.45 PM

Present: Ld. Counsel for revisionist.

1. The present revision is directed against the order dated 14.08.2020, passed by Ld. MM, Central, whereby an application u/s 164 Cr.PC of the revisionist, for recording of statement u/s 164 Cr.PC of her husband i.e. victim, was dismissed.

2. Arguments heard on the admission.

3. The facts leading to filing the present revision is that initially the revisionist filed the complaint alongwith an application u/s 156 (3) Cr.PC before Ld. MM. The grievance of the revisionist/complainant before Ld. MM was that on 14.06.2020, some dispute arose between her family and family of her neighbour namely Prateek due to ring of wife of Prateek. Prateek and his wife were alleging that a minor daughter aged about 4 years of the complainant has stolen the gold ring of Prateek's wife. In order to find the said ring, Prateek alongwith his wife and respondent no. 2 Ct. Praveen came to her house and inquired about the ring from complainant and her husband but on being satisfied from the reply of complainant and her husband that their daughter has not stolen any ring, respondent i.e. Prateek, his brother Ghotu and Ct. Praveen became furious and dragged complainant's husband Rajesh on the roof of their house and from there they pushed him on the floor due to which Rajesh sustained injuries and got admitted in ICU at Sushrut Trauma Centre. The complainant and her brother made

several complaints at PS Burari and to concerned ACP and DCP but despite that no action was taken by the police. Therefore, the complainant filed an application u/s 156 (3) Cr.PC before concerned Ld. MM for getting her grievance redressed as per law.

4. Vide order dated 01.07.2020, the Ld. MM allowed the application u/s 156 (3) Cr.PC directing registration of FIR under the relevant provisions. The said order was challenged by the respondent no. 1 Praveen by way of revision before Ld. District & Session Judge which was assigned to this court. Vide order dated 06.07.2020, the said revision petition was dismissed by this court. The order dated 06.07.2020, passed by this court was challenged by the respondent no. 1 Praveen before Hon' ble High Court. The Hon' ble High Court vide its order dated 09.07.2020, stayed the order dated 01.07.2020, passed by Ld. MM directing to register the FIR. Now, the revisionist Rekha filed an application u/s 164 Cr.PC before Ld. MM seeking recording of statement of her husband Rajesh stating that he is admitted in hospital and is in serious condition. The application u/s 164 Cr.PC was dismissed by Ld. MM vide impugned order dated 14.08.2020, observing that since the order dated 01.07.2020, passed by Ld. MM has been stayed by Hon' ble High Court which means there is no FIR pending this case in which the statement u/s 164 Cr.PC could be recorded. The order dated 14.08.2020, passed by Ld. MM is under challenge in the present revision before this court.

5. As per Section 397 (2) Cr.PC, the revision against the interlocutory order is not maintainable. In "*Amarnath & Ors Vs. State of Haryana & Ors*", AIR 1977 SC 2185, the Hon' ble Apex Court has held that the interlocutory orders are those which do not decide or touch the important rights or liabilities of the parties. Any order which

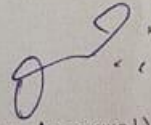
substantially affects the rights of the accused, or decide certain rights of the parties cannot be said to be an interlocutory order so as to bar a revision. Reliance is also placed in this regard on "*V. C. Shukla Vs. State*", AIR 1980 SCC, "*Neelam Mahajan & Ors. Vs. State*", Manu/DE/ 0871/16.

6. In the present case, vide impugned order dated 14.08.2020, the Ld. MM has dismissed an application u/s 164 Cr.PC of the revisionist. The said order per-se is an interlocutory order as it is not deciding or touching any substantial right of the parties. In view of the same, the present revision is not maintainable u/s 397 (2) Cr.PC, hence, the same is hereby dismissed.

File be consigned to the record room.

Announced through V C

17.08.2020

  
(Charu Aggarwal)  
ASJ-02/Central/THC/Delhi  
17.08.2020