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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 21.04.2025*+ **CRL.REV.P. 920/2024 & CRL.M (BAIL) 1195/2024**

KULDEEP

.....Petitioner

Through: Mr. Amit Sahni (DHCLSC),
with Mr. Ankur, Mr. Parth
Sharma and Mr. Vaibhav
Mishra, Advocates

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Manoj Pant, APP for the
State, with S.I. Sumit Singh.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of this revision petition, the revisionist has assailed his conviction for offence punishable under Sections 354, 354B, and 506 (Part II) of Indian Penal Code, 1860 [hereafter 'IPC'] in case arising out of FIR No. 56/2017, registered at Police Station I.P. Estate, Delhi. The revisionist was convicted by learned Metropolitan Magistrate (Mahila Court)-01, Tis Hazari Court, Delhi [hereafter 'Trial Court'] *vide* judgment dated 01.11.2019 and order on sentence dated 16.09.2020 was passed thereafter. His appeal (Crl. Appeal No. 158/2020) against his conviction, filed before learned Additional



Sessions Judge-03, Central, Tis Hazari Court, Delhi [hereafter '*Appellate Court*'] was dismissed *vide* judgment dated 30.01.2024 and order on sentence dated 27.03.2024.

2. As per the charge sheet, the case arises out of an incident dated 24.02.2017. At around 9:00 PM, upon receipt of DD No. 31 PP, ASI Promod Kumar, along with Constable Amresh Kumar, had reached the place of occurrence, i.e., DDU Marg, near Narayan Dutt Bhawan. There, they had met the complainant 'R', who had informed the police officials that the accused had misbehaved with her. The complainant had thereafter been taken to LNJP Hospital for medical examination in respect of the injuries sustained by her. Subsequently, the complainant was brought to the police *chowki*, where she stated that she would return the next morning to lodge a formal complaint. On the following day, the complainant had arrived at the police station and handed over a written complaint. In her complaint, she alleged that on the previous evening, around 9:00 PM, while she was walking along the roadside at DDU Marg, the accused, namely Kuldeep, had approached her from behind, covered her mouth, and threatened to kill her if she made any noise. It was further alleged that the accused had inserted his hand inside her *kurta*, pressed her breasts, and attempted to remove her clothes. However, upon her raising an alarm, the accused had fled from the spot. Thereafter, the complainant, along with the police officials, had searched for the accused and made inquiries with members of the public regarding his whereabouts. The accused was eventually located at Mahavat Khan



Road, and upon identification by the complainant, he was arrested in connection with the present case.

3. Upon completion of the investigation, a charge sheet was filed for offence under Sections 354, 354B, and 506 of IPC. On 21.09.2017, charges for offence under Sections 354, 354B, and 506 (Part II) of IPC were framed against the revisionist, and trial commenced.

4. During the course of the trial, the prosecution examined seven (07) witnesses. After the conclusion of prosecution evidence, the statement of the revisionist (accused) under Section 313 of Cr.P.C. was recorded. Upon hearing final arguments, the learned Trial Court convicted the revisionist for offences under Sections 354, 354B, and 506 (Part II) of IPC *vide* judgment dated 01.11.2019 and sentenced him, *vide* order on sentence dated 16.09.2020, in the following manner:

- i. Simple imprisonment for 01 year alongwith payment of fine of Rs.2,000/- for the offence punishable under Section 354 of IPC, and in default, to undergo further simple imprisonment for 10 days.
- ii. Simple imprisonment for 03 years alongwith payment of fine of Rs.4,000/- for the offence punishable under Section 354B of IPC, and in default, to undergo further simple imprisonment for 10 days.
- iii. Simple imprisonment for 02 years alongwith payment of fine of Rs.2,000/- for the offence punishable under Section 506



(Part-II) of IPC, and in default, to undergo further simple imprisonment for 10 days.

iv. All the sentences of imprisonment to run concurrently.

5. Aggrieved by his conviction, the revisionist preferred an appeal before the learned Appellate Court, which was dismissed *vide* the impugned judgment dated 30.01.2024. The conviction recorded as well as the sentence awarded to the revisionist was upheld by the learned Appellate Court.

6. The revisionist has now approached this Court by way of this revision petition, seeking to assail the legality and correctness of the judgments passed by both the learned Trial Court and the learned Appellate Court.

7. The learned counsel appearing for the revisionist has assailed the impugned judgments, primarily, on three grounds. *Firstly*, it is contended that the testimony of the complainant does not find corroboration from any independent or public witnesses. It is submitted that even though it is the prosecution's case that the spot of the incident was a busy road with considerable traffic and several members of the public were present, no public witness was examined by the I.O., which, according to the learned counsel, casts serious doubt on the veracity of the complainant's version. Therefore, it is contended that sole testimony of the complainant could not have been relied upon to convict the present revisionist. *Secondly*, the learned counsel argues that there are material contradictions in the various statements made by the complainant, which render her version



unreliable and unworthy of credit. *Thirdly*, it is argued that the revisionist has been falsely implicated due to his close association with the family of one Dhanbhai. According to the learned counsel, the complainant harboured ulterior motives and initiated the present proceedings with the intent to extort money from the revisionist. It is also submitted that the complainant is a habitual drunkard, known to demand money from persons under various pretexts and it was only when the revisionist refused to comply with the alleged monetary demands of the complainant, that he was falsely roped into the present case.

8. The learned APP for the State, on the other hand, opposes the present revision petition, submitting that the impugned judgments of the learned Trial Court and the learned Appellate Court suffer from no illegality, perversity, or material irregularity warranting interference by this Court. It is argued that both courts below have meticulously appreciated the evidence on record, including the consistent and cogent testimony of the complainant, and have duly considered and dealt with all arguments advanced on behalf of the accused. The learned APP for the State further submits that the absence of public witnesses does not, by itself, render the prosecution case doubtful, particularly when the victim's testimony is found to be trustworthy and reliable. It is contended that the conviction has been rightly recorded on the basis of clear and sufficient evidence, and no ground for revising the impugned judgment is made out.



9. This Court has **heard** arguments addressed by the learned counsel for the revisionist as well as learned APP for the State, and has perused the material placed on record.

10. Before appreciating the rival contentions raised by the learned counsel, it shall be relevant to succinctly discuss the scope of a revision petition, challenging the judgments pertaining to conviction of an accused passed by the Trial Court and the Appellate Court. It is well-settled that the High Court in criminal revision against conviction is not supposed to exercise the jurisdiction akin to the appellate court and the scope of interference is limited. Section 397 of the Cr.P.C. vests jurisdiction for the limited purpose of satisfying the Court as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such trial court. It is also well settled that while considering the same, the Revisional Court cannot dwell at length upon the facts and evidence of the case. In this regard, it was held in the case of *Malkeet Singh Gill v. State of Chhattisgarh*: (2022) 8 SCC 204 as under:

“12. As per the settled legal position and after conviction by the Trial Court and the Appellate Court on filing the revision the High Court maintained the conviction upholding the findings of the two courts. The High Court found the finding recorded by the two Courts to serve the sentence consecutively by the appellant and the other co-accused were not correct, hence set aside and directed to run such sentence concurrently.

13. In our considered opinion, the finding of fact as recorded by the Trial Court and the Appellate Court has rightly not been interfered while maintaining the conviction against the appellant. On the issue of sentence also the direction as issued by the High Court is in consonance with the provisions of



Section 31 of Cr.P.C which confer full discretion to the Trial Court as well as Appellate Court to order the sentences to run concurrently in case of conviction for two or more offences.”

11. Similarly, in *State of Gujarat v. Dilipsinh Kishorsinh Rao: 2023 SCC OnLine SC 1294*, the Hon’ble Supreme Court had observed as follows:

“13. The power and jurisdiction of Higher Court under Section 397 Cr. P.C. which vests the court with the power to call for and examine records of an inferior court is for the purposes of satisfying itself as to the legality and regularities of any proceeding or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law or the perversity which has crept in such proceedings....”

12. Coming to the merits of the case, this Court notes that prosecution had examined seven witnesses, including the complainant ‘R’ (PW-1), the police officials who had reached the spot of incident i.e. Constable Amresh Kumar (PW-4) and ASI Pramod Kumar (PW-7), and other police witnesses and doctors concerned. From the reading of testimony of PW-4 and PW-7, it becomes clear that upon receipt of DD entry on 24.02.2017 at around 9 PM, they had reached the spot at Narayan Dutt Bhawan, DDU Marg, where the complainant had informed them about the alleged misbehaviour by the accused. She was thereafter taken to LNJP Hospital for medical examination. Later, she had come to the police station the next morning and handed over a written complaint, on the basis of which the present FIR was registered. The police officials, along with the complainant, had then gone for the search of the



accused and apprehended him at Mahavat Khan Road, where he was identified by the complainant and arrested thereafter.

13. PW-1 i.e. the complainant 'R' deposed before the learned Trial Court that on 25.02.2017, at about 9 PM, she was going to Hanuman Temple, Connaught Place, through DDU Marg Road. While she was walking on the footpath, the accused Kuldeep had come and caught hold of her from behind. He then had put his hand on her mouth and threatened her by saying "*agar shor machaya to jaan se maar dunga*" and thereafter he had put his hand inside her shirt and started pressing her breasts. Thereafter, he had pulled her slacks downwards and had tried to outrage her modesty by trying to make her naked. She had raised an alarm as soon as the hands of the accused were removed from her mouth and thereafter, the accused had fled from the spot. The complainant had then called the police at the spot. She further deposed that some dweller told the address of the accused and he was later arrested by the police. The complainant, during the course of recording of her testimony, had correctly identified the revisionist.

14. Since the scope of a revision petition is limited, as already discussed above, it shall be important to now address the three-fold argument of the learned counsel for the revisionist. At the outset, this Court notes that the said arguments and contentions have already been dealt with by the learned Appellate Court, in detail, in the impugned judgment dated 30.01.2024. However, for the sake of completeness, this Court shall now deal with the same.



15. The first argument of the revisionist pertains to the non-examination of any public witness by the prosecution, despite the claim that the place of incident was a busy road, and that the sole testimony of the complainant is insufficient to convict the revisionist. In this regard, this Court is of the opinion that the said argument is without merit. It is a settled position of law that conviction for offences involving sexual assault can be based solely on the testimony of the complainant, provided her version is found to be natural, consistent, and trustworthy. The absence of independent public witnesses does not, by itself, cast doubt on the prosecution's case, especially in cases of sexual offences, which may occur in circumstances where public presence is either minimal or those present may choose not to get involved. In the present case, it is also important to note that the complainant never stated that there were public persons who had witnessed the incident. Merely because no public witness was examined cannot be a ground to discard the otherwise credible testimony of the complainant. If the version of the complainant inspires confidence, there is no legal mandatory requirement for further corroboration. More so, such incidents as the present one are committed not in the presence of witnesses and rather the perpetrator takes advantage of absence of people around or secluded or dark places etc. In view of the same, this argument advanced on behalf of the revisionist is liable to be rejected.

16. The second contention of the learned counsel for the revisionist is that there are several contradictions in the statements of the complainant, which render her version unreliable and



untrustworthy. Insofar as this contention is concerned, this Court is of the opinion that the overall testimony of the complainant has remained consistent and credible on all material aspects of the case. A cogent stand has been taken by the complainant, particularly with respect to the presence of the revisionist at the spot on 24.02.2017 at about 9 PM; the revisionist grabbing the complainant from behind; placing his hand on her mouth while simultaneously threatening to kill her; putting his hand inside her shirt and pressing her breasts; and thereafter, pulling her slacks in an attempt to disrobe her and thereby outrage her modesty. Her testimony further remains consistent with respect to the arrival of the police at the scene and her statement being recorded by the concerned officials on the day following the incident. While there may be some minor contradictions in the statements of the complainant, they do not go to the root of the prosecution's case and are not sufficient to discredit the overall version of the complainant. As regards the contradiction in the statements of the complainant regarding the arrest of the revisionist, the same stands established by the testimonies of PW-4 and PW-7 and is a matter of record. The alleged contradiction regarding the complainant's knowledge of the revisionist – wherein she stated under Section 164 of Cr.P.C. that the accused used to frequently visit the *jhuggis* near her house and was known to her, but later in cross-examination stated that she did not know the revisionist personally though she had seen him drinking and playing cards near the roadside – has no material bearing. The complainant's consistent position is that while she had seen the revisionist around her locality, she was



not personally acquainted with him. Such discrepancy, if any, is minor and does not undermine the trustworthiness of her account. In view of the above, this Court finds no merit in the said contention, and agrees with the view taken by the learned Appellate Court in rejecting this argument.

17. Lastly, it has been argued that the revisionist herein was falsely implicated by the complainant since he was closely related to one Dhanbhai, with whom the complainant had animosity, and therefore, she allegedly implicated the revisionist out of malice. It was further contended that the complainant is a habitual drunkard, known to demand money from various individuals, and it was only when the revisionist refused to comply with such monetary demands that he was falsely roped into the present case. As regards this contention, it is material to note that no such specific defence was taken by the accused in his statement under Section 313 Cr.P.C. recorded before the learned Trial Court. In response to the questions put to him, the accused simply stated: *“I am innocent and have been falsely implicated in the present case due to enmity and pressurized me to grab the money from me,”* without elaborating on any specific connection with Dhanbhai or the complainant's alleged conduct. Though certain questions regarding the alleged animosity and relationship with Dhanbhai were put to the complainant during her cross-examination, nothing substantial emerged to discredit her version. In fact, the complainant categorically stated, *“It is correct that I have a dispute with Smt. Dhan Bai and his family. But I have no knowledge that the accused person having good relation with*



Dhan Bai family.” Furthermore, it is a matter of record that the accused did not examine any defence witness, including the said Dhanbhai, to substantiate the alleged motive for false implication. As far as the contention that the complainant is a habitual drunkard who extorts money from others is concerned, it is merely an unsubstantiated allegation raised for the first time at the appellate stage. The accused has neither examined any witness to support this claim nor brought on record any complaint made either by himself or any other person against the complainant regarding such behaviour. In the absence of any cogent material or credible evidence to support these assertions, this Court finds no merit in the argument, and the same is liable to be rejected.

18. The revisionist has been convicted for offence under Section 354 of IPC, which deals with assault or criminal force to woman with intent to outrage her modesty; Section 354B of IPC, which deals with assault or use of criminal force to woman with intent to disrobe; and Section 506 (Part II) of IPC, which deals with punishment for criminal intimidation, if threat be to cause death or grievous hurt, etc. Clearly, taking into consideration the testimony of the complainant, the essential ingredients of all these offences are fulfilled.

19. In this Court’s opinion, the learned counsel for the revisionist has not been able to point out any patent error, infirmity or perversity with the impugned judgments rendered by the learned Trial Court and learned Appellate Court.



2025:DHC:2753



20. The conviction of the revisionist is accordingly upheld. Since the courts below have already adopted a lenient view and awarded minimum sentences to the revisionist, this Court is not inclined to interfere with the quantum of sentence awarded to the revisionist.

21. The present revision petition, alongwith pending application, is dismissed.

22. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 21, 2025/ns