

# The State Govt. Of Nct Of Delhi vs Tasleem Khan on 18 February, 2019

**Author: Najmi Waziri**

**Bench: Najmi Waziri**

\$~2

\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ CRL.L.P. 594/2018, CRL.M.A. 31842/2018  
THE STATE GOVT. OF NCT OF DELHI ..... Petitioner  
Through: Mr. Rajat Katyal, APP for State.

versus

TASLEEM KHAN ..... Respondent  
Through:

CORAM:  
HON'BLE MR. JUSTICE NAJMI WAZIRI  
ORDER

% 18.02.2019 This petition seeks leave to appeal against the impugned order dated 28.04.2018 acquitting the respondent of charges under sections 354/354B/323/342 IPC and sections 7 & 8 POCSO Act, 2012.

It is the petitioner's case that the respondent committed the aforesaid offences against a minor. However, the petitioner has been unable to lead any evidence in this regard; the only evidence is the basis of the statement of the victim, her mother and sister. Even this testimony prevaricates from one end to another, thus making it unreliable.

The learned Trial Court has reasoned as under:-

"19. In the instant matter, PW-1, PW-2 and PW-3 were the material witnesses but PW-2 and PW-3 had not supported the prosecution case in any manner and demolished the prosecution version. Though, PW-1 (victim) in her examination in chief supported the prosecution version but in her cross examination, PW-1 also took a U-turn from her earlier testimony and even deposed to the extent that she had not seen the face of the person who committed the incident with her. Ld. Addl. PP for the State contended that as PW-1 supported the prosecution version in her examination in chief and hence, the prosecution has been able to establish the offence against the accused and he has also cited the case laws on this point as mentioned above. However, the case laws as mentioned by Ld. Addl. PP for the state is not applicable in the facts & circumstances of the present case, as not only PW-1 stated in cross examination that she had not seen the face of the person who committed the offence/incident due to darkness but other material witnesses PW-2 and PW-3 who

were sister and mother of victim respectively, had also not supported the prosecution version in any manner. Otherwise also, though it is the allegation against the accused that he had given beatings to victim by a belt, when victim resisted, but the said belt had also not been recovered by the police, despite of the fact that the said belt stated to be belongs to the brother of the victim and same was laying in the room. PW-6 IO of the case has also not given any explanation as to why the alleged belt had not been recovered. Moreover, the Bua (Aunt) of the victim who stated to have called the police at 100 number as per the version of PW-1 & PW-2, has not been even cited as witness in this case and she was not even examined. All these makes the prosecution case, unreliable particularly in view of the testimony of material witnesses PW-1, PW-2 and PW-3. Thus prosecution has failed to prove the offence alleged against the accused beyond reasonable doubt".

What emanates from the aforesaid reasoning is that there are contradictions between the statement of the victim in her examination-in- chief and the statement she gave in her cross-examination. Furthermore, there are discrepancies in the statements of the material witnesses i.e. the mother and sister of the victim, who did not support the case of the petitioner.

In view of the above, the petitioner is unable to show any flaw in the impugned order.

The petition is without merits and is accordingly dismissed.

NAJMI WAZIRI, J FEBRUARY 18, 2019/RW