

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

Date of Order: 19<sup>th</sup> November, 2010

**+W.P. (Crl.) 1500/2010**

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**19.11.2010**

**Sapna & Anr.**

Through: Mr. M.A. Hussain, Advocate

**... Petitioner**

Versus

**State & Anr.**

Through: Mr. Pawan Sharma, Standing Counsel with Mr. Mohit Mudgil,  
Advocate

**... Respondents**

**JUSTICE SHIV NARAYAN DHINGRA**

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

**ORAL**

The present petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C. has been filed by the petitioners for issuance of writ of mandamus or any other appropriate writ order or direction against the respondents to transfer of investigation to CBI and directions to initiate action against police officials mentioned as respondents for dereliction of duty and abuse of their authority as well as initiating action against the respondents for not discharging their duties against respondents no. 4 to 6.

2. In the petition allegations were made that police officials initially arrested two persons namely Shri Niranjana Singh and Smt. Rukmani Devi and after taking bribe from them of Rs.5.5 lac, let them off. Thus they committed dereliction of duty, respondents no. 3 in connivance with respondents no. 4 and 5 and respondent no.2 did not take any action against them therefore directions should be issued against him also for action.

3. The case relates to a complaint filed by father of Ms. Sapna regarding her kidnapping and rape. Father of Ms. Sapna made allegations that Ms. Sapna was a mentally challenged woman and she had been kidnapped and raped by Manish and other persons named by him had connived with Manish. After filing of present petition, the matter was directed to be transferred to SIT, Crime Branch and investigation was done by Crime Branch and a report has been filed. The report shows that Ms. Sapna was aged 26 years. She was related to Manish, since she was sister in law of Manish's brother Ranjit. She was a widow and had two minor children who were living with family of her late husband. Her statement under Section 164 Cr.P.C was recorded before learned MM at the District Courts, Dwarka and in her statement she admitted that she had accompanied Manish out of her own free will. However, thereafter she did make allegations that Manish raped her. The investigation conducted by the police shows that Manish and Sapna stayed together in various hotels in Rajasthan, Ajmer. A screening of hotels record was conducted by the police and this screening showed that only two of them had stayed together in all the hotel rooms. No evidence was there to suggest the presence of any other family member named by the complainant or father of

Sapna, who might have stayed with them. They had also stayed at other hotels in Ahmedbad and the local police had physically checked them while they were staying in the hotel room. There was nothing on record to suggest that Sapna was ever kidnapped or raped, neither had she made a complaint to the local police while police checked the hotel rooms. Accused Manish was arrested by the police in this case and is in judicial custody. It is submitted that there was no offence made out against other persons, therefore, they were not arrested. The investigation shall be completed at the earliest and a challan shall be filed.

4. I am satisfied that the investigation was being done in a right and fair manner and there was no necessity of transferring the investigation. I also consider that no action was warranted against police officials named by the petitioner because they were not working as per the whims of the petitioner.

5. In view of above facts and circumstances, I find no force in this petition. The petition is hereby dismissed.

**November 19, 2010**  
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**SHIV NARAYAN DHINGRA, J.**