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

% ***Judgment Reserved on: 09.03.2026***
Judgment pronounced on:10.03.2026

\+ **CRL.A. 1090/2024**

XYZ .....Appellant

Through: None.

versus

STATE OF NCT OF DELHI THROUGH SHO,
P.S- GK-1, NEW DELHI & ANR. .....Respondents

Through: Mr. Utkarsh, APP for the State with SI Nishi, PS GK-1.

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This appeal under Section 413 of Bhartiya Nagrik Suraksha Sanhita, 2023 (the BNSS) read with 372 of the Code of Criminal Procedure, 1973 (the Cr.P.C.), has been filed by the prosecutrix in Sessions Case No.278/2024 on the file of the Additional Sessions Judge, Special Fast Track Court, South-East District, Saket Courts, Delhi, challenging the order dated 02.08.2024, as per which the accused i.e. the respondent herein,

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has been discharged of the offence punishable under Section 376 of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that the appellant had given her gold articles to the accused (respondent no. 2 herein) and when she demanded those articles back, the latter asked her to establish physical relations with him. The accused/respondent no. 2 established physical relations with the appellant, against her will. Hence, the accused/respondent no. 2 as per the chargesheet/judgment is alleged to have committed the offence punishable under Section 376 IPC.

3. Based on the information given by the prosecutrix on 16.01.2023, crime no. 7/2023,Police Station Greater Kailash, was registered. Investigation was conducted into the crime and upon completion of the same, the chargesheet/final report was submitted before the Court, alleging the commission of the offence punishable under the aforementioned Section.

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4. On appearance of the accused before the trial court, the court after hearing both sides, as per order dated 02.08.2024, discharged the accused of the offence punishable under Section 376 IPC.

5. A perusal of the record shows that the appellant has not been appearing before this Court regularly. The learned Additional Public Prosecutor submits that the appeal is not maintainable and that the remedy of the appellant is to file a revision.

6. As the appellant has not been appearing regularly, this Court is proceeding to consider the matter on merits in the light of the dictum in **Bani Singh & Ors. v. State of U.P., (1996) 4 SCC 720** after going through the records in this case.

7. As per the impugned order, the trial court has discharged the accused of the offence punishable under Section 376 of the IPC finding that no *prima facie* case or strong suspicion regarding commission of offence by the accused/respondent no. 2 has been

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made out. Discharge of an accused is apparently not an interlocutory order as contemplated under section 397(2) Cr.PC. Therefore, the remedy available to the appellant herein is to file a revision under section 397(1) Cr.PC. (See **Haryana LRB Corporation Limited v. State of Haryana 1990 KHC 512 : (1990) 3 SCC 588**)

8. In the result, the appeal is dismissed as not being maintainable.

9. Applications, if any, pending shall stand closed.

CHANDRASEKHARAN SUDHA
(Judge)

MARCH 10, 2026
RS

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