**Merely delay in recording the statement of the witness/abductee cannot result into the quashing of the FIR: High Court of J&K and Ladakh**

The petitioner can take the advantage of the delay in recording the statement of the girl during the course of trial in the event of filing of challan provided the prosecution is unable to explain the delay in recording the said statement, but nonetheless, merely delay in recording the statement of the witness/abductee cannot result into the quashing of the FIR as held by the **Hon’ble High Court of J&K and Ladakh** through a learned bench of **Justice Rajnesh Oswal** in the case of **Mohsin Rizvi Vs Union Territory of J&K and another. [CRM(M) No. 675/2019 (O&M)]**

The brief facts of the case are that the petitioner was 19 years of age and had friendly relations with one girl named withheld. The friendly relations of the petitioner were not to the liking of the mother of the girl because the petitioner and the said girl belonged to different religions. However, at no point of time there was any physical relationship with the petitioner and the said girl. In order to stop the petitioner with the meeting of the said girl and to pressurize the petitioner, the mother of the girl filed a complaint with Police Post City, Rajouri and succeeded to lodge the FIR impugned dated 19.12.2017 under **sections 363 and 109 RPC** against the petitioner.

It was further submitted that during this intervening period of two years, the said girl was married to one Mr. Ajay Yadav and is living presently in Delhi and she was reportedly having a girl child from her matrimonial wedlock from the said marriage as well. It is further stated that in order to avoid her prosecution, as the false and frivolous FIR was lodged by the mother of the girl, the mother of the girl got the statement of her daughter recorded in support of her allegations after two years of lodging of the FIR and this mere fact alone, demonstrates the falsity of the impugned FIR.

**Mr. Sunil Sethi**, learned senior counsel for the petitioner has vehemently argued that the statement of the victim was recorded after two years and offence under sections **363 and 376** were added and the mere fact that the statement of the victim was recorded after two years demonstrates that a false and frivolous FIR had been lodged by the mother of the victim. On the other hand, **Mr. Bhanu Jasrotia**, learned GA has vehemently argued that the investigation was carried out and pursuant to the investigation, offences under sections 366 and 376 RPC were also added and mere fact that there was delay in recording the statement of the victim cannot result into the quashment of the FIR.

The Hon’ble High Court, after hearing both the sides, stated that *“The petitioner can take the advantage of the delay in recording the statement of the girl during the course of trial in the event of filing of challan provided the prosecution is unable to explain the delay in recording the said statement, but nonetheless, merely delay in recording the statement of the witness/abductee cannot result into the quashing of the FIR. The other contention of Mr. Sethi that the said FIR was lodged with ulterior motive to desist the petitioner from continuing his friendly relationship with her daughter, is a disputed question of fact that cannot be adjudicated upon by this Court while considering a petiton for quashing the FIR. The petitioner can raise this plea during the course of trial in the event the charge-sheet is filed against the petitioner.”*

**Judgment Reviewed by – Aryan Bajaj**