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

+ **CRL.REV.P. 573/2016**

ABID HUSSAIN & ORS.

..... Petitioner

Represented by: Mr. O.P. Wadhwa, Mr. Chirag
Khurana, Mr. Prakash Pandey,
Advs.

versus

STATE & ANR.

..... Respondent

Represented by: Mr. Hirein Sharma, APP with
SI Ram Pal Singh PS Nihal
Vihar.
Mr. Devender Hora, Mr. Rohit
Verma, Advs. for R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

29.11.2016

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Crl.M.A. 13440/2016

For the reasons stated in the application delay of 19 days in filing the petition is condoned.

Application is disposed of.

CRL.REV.P. 573/2016 & Crl.M.As. 13439/2016 (stay), 13442/2016 (addl. documents)

Case FIR No.19/2016 was registered under Section 498A/406/376/377/506/34 IPC and Section 10 of the Protection of Children from Sexual Offences Act, 2012 (in short POCSO Act) at PS Nihal Vihar. After investigation a charge-sheet was filed by the investigating officer keeping Rahis Ahmed Saifi the husband of the complainant in column

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No.11 whereas the other relations i.e. Abid Hussain his father, Irshad Ahmed Saifi his brother, Imrana Saifi the sister and Kanwal Saifi his second wife were kept in column No.12.

Vide order dated 9th May, 2016 the learned ASJ which was the Court of original jurisdiction as the offence alleged being under Section 10 of POCSO took cognizance of the offences and issued summons to the four petitioners who were kept in column No.12. The order dated 9th May, 2016 reads as under:

“09.05.2016

Pr. Niab Court for the State.

SI Khiloni.

Ld. APP has gone to attend the meeting called by Hon’ble High Court at 3.30 PM.

IO/SI Maya is present.

Fresh charge sheet has been filed by the IO without arresting to all the accused. It be checked and registered.

Perused the same.

Cognizance is taken.

Issue summons to all the accused for NDOH. Service of the accused are ordered to be effected through IO of the case.

To come up on 05.07.2016.”

It is apparent from the order that while disagreeing with the opinion of the investigating officer, learned Trial Court thought it fit to issue summons to the four petitioners. However, order issuing summons is bereft of any reasoning. Though detailed reasons were not required to be given but prima facie the reasons on which the Court thought it fit to summon the accused

who were not charge-sheeted for trial and were kept in column No.12 were required to be given by the Court.

Consequently, the order dated 9th May, 2016 issuing summons to the four petitioners is set aside. The matter is remanded back to the learned Additional Sessions Judge who would pass a reasoned order after considering charge-sheet and giving his reasons for disagreeing with the same.

Petition and application are disposed of.

MUKTA GUPTA, J.

NOVEMBER 29, 2016
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