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

+ W.P.(CRL) 2671/2016

ARVIND KUMAR

..... Petitioner

Through: Mr. Rahul Kumar Singh, Advocate

versus

STATE OF NCT OF DELHI & ANR

..... Respondent

Through: Mr. Rajesh Mahajan, ASC with SI
Ravi Kumar, PS Zafrabad
Mr. S.K. Bhardwaj for R-2 to 4

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

14.09.2016

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Crl.M.A. No.14264/2016

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(CRL) 2671/2016

This petition has been filed to seek the quashing of FIR No.100/2014 registered under Section 354A and Section 8 of POSCO Act, registered at PS Zafrabad, and the proceedings arising therefrom. The petition is premised on a compromise stated to have been arrived at between the petitioner and the complainant. The complainant and her parents – impleaded as respondent nos.2 to 4, are present in court and represented through counsel.

Counsel for respondent No.2 to 4 states that they have no objection to the quashing of the FIR and the proceedings arising therefrom in view of the compromise arrived at between the petitioner and respondent nos.2 to 4 on 17.02.2016. However, the petition is opposed by the State on the ground that the offence involves a doctor, who treated the complainant – a 12 year old girl, and inappropriately touched her.

Mr. Mahajan submits that the complainant stood by her stand taken in the FIR in her statement recorded under Section 164 Cr PC. He submits that a reading of the FIR shows that even before its registration, the petitioner had sought to influence the complainant by offering money to her to shut the case.

The submission of learned counsel for the petitioner is that the petitioner was only examining respondent No.2 and had acted bonafide. He submits that it was a case of misunderstanding by the complainant, who felt that she had been inappropriately touched and handled by the petitioner. He places reliance on the order passed in CrI MC No.1310/2016 – *Ravi Mishra v. State of NCT of Delhi & Ors.*, decided on 04.04.2016, whereby this Court had quashed FIR No.23/2013 registered at PS Uttam Nagar under Section 8 of POSCO Act. The case involved a young girl who had made a complaint against her uncle of alleged sexual molestation. In that case, the complaint was quashed since the complainant was about to get married and, therefore, wanted a settlement.

Even though the complainant and her parents are present and state that they do not wish to pursue the matter any further, and also join the prayer of the petitioner for quashing of the FIR and the proceedings arising therefrom, I am not inclined to do the same in the facts of this case. The FIR

as well as the statement made by the complainant under Section 164 Cr PC shows that the complainant had gone for treatment of ailment suffered by her on her neck. She clearly stated that it was only that part of her body that was afflicted. The petitioner allegedly touched her and pressed her breasts, and there was no occasion for him to do the same. The relationship between a doctor and a patient is that of a trust.

In these circumstances, considering the fact that the complainant is a minor of only 12 years of age, I am not inclined to quash the FIR in the present case. However, the Trial Court is directed to expedite the trial, and it is made clear that the observations made in this order shall not prejudice the case of the accused.

VIPIN SANGHI, J

SEPTEMBER 14, 2016

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