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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on : 12th May, 2017

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W.P.(CRL) 810/2016

SHALINI GUPTA

..... Petitioner

Through: Mr. Nawal Kishore Jha and Mr.
Siddharth Acharya, Advocates

versus

STATE & ANR.

..... Respondents

Through: Mr. Rajesh Mahajan, ASC with
Mr. Lokesh Chandra, Advocate with Insp.
Rajeev Yadav, PS Inder Puri for R-1/State

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. Heard at length. The petitioner stands summoned by the court of the Metropolitan Magistrate in criminal case arising out of a report under Section 173 Cr. PC., which has been submitted on conclusion of investigation into FIR no.316/2015 alleging offences punishable under Sections 23 and 26 of the Juvenile Justice (Care and Protection of Children) Act, 2000, the prime allegations being that she had engaged the first informant girl (child) as a household maid-servant and then subjected her to cruelty and exploitation.

2. The prime contention on the basis of which the present writ petition seeks quashing of the afore-said criminal case is that the first

informant was not a juvenile, her age having been declared to the placement agency as 19 years.

3. During the course of investigation, the first informant was also sent for opinion as to her age on the basis of Radiological examination. The said opinion indicates her age at the time of examination to be 17-19 years. The petitioner relies on the observations of the court of sessions in Criminal Appeal 157/2015 decided on 18.02.2016, the said appeal being against the order dated 04.12.2015 of the Child Welfare Committee directing payment of wages for the relevant period of employment by the petitioner. The observations of the sessions court in the said matter clearly were for purposes of decision on the contentions raised in such proceedings and are at best opinion which might be relevant, the final determination of the issues, however, to be rendered after proper trial.

4. In the facts and circumstances that instead of embarking on a fact-finding inquiry it will be proper that the petitioner be given liberty to urge the contentions raised here before the trial court at appropriate stage of the proceedings pending before it.

5. With these observations, the petition is disposed of.

R.K.GAUBA, J

MAY 12, 2017

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