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

+ **W.P.(CRL) 1273/2017**

SHRI PRADEEP Petitioner

Through: **Mr.Ashwin Vaish, Adv.**

versus

STATE Respondent

Through: **Mr.Sanjay Lao, ASC.**
SI Mool Chand, P.S.Jaitpur.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **01.05.2017**

Crl.M.A.7073/2017

Allowed, subject to all just exceptions.

Application is disposed of.

W.P.(CRL) 1273/2017

The petitioner was made accused in FIR No.481/2016 dated 27.08.2016 (P.S.Jaitpur) for offences under Section 354/451 IPC read with Section 8 of the POCSO Act.

The petitioner contends that the girl who was said to have been messaged and stalked by the petitioner was known to her from before. The petitioner and the girl stayed in the same locality and had been talking to each other for about two months. The allegation in the FIR is that the petitioner had tried to scale over the wall of the house of the informant but he was caught. The petitioner was allegedly assaulted, not only by the father

of the girl but by the police also. However, no case has been registered against anybody for such assault.

During the course of investigation of the case, a prayer was made by the petitioner before the Special Court, invoking Section 91 of the Code of Criminal Procedure for seeking the production and storage of telephone records which otherwise would be effaced.

The Court below, by the order impugned, did not accede to such request on the ground that the investigation was still pending and the petitioner could have approached the investigating agency for the needful. The order impugned was passed on 22.12.2016.

Now, the chargesheet in this case has already been filed on 04.01.2017.

It would, thus be open for the petitioner to approach now, afresh, before the learned Special Court which is in seisen of the matter for such a direction.

In view of this observation, the learned counsel for the petitioner seeks permission to withdraw this writ petition in order to enable him to prefer such application before the Special Court.

As and when such an application is filed, the same shall be disposed of by the Special Court as expeditiously as possible. The withdrawal of the present writ petition will not be to the prejudice of the petitioner.

Dasti under the signature of Court Master.

ASHUTOSH KUMAR, J

MAY 01, 2017

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