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

+ W.P.(CRL) 1585/2017

MS GUNJAN & ANR Petitioners

Through: Mr. S.A. Rajput, Advocate

versus

STATE (NCT OF DELHI) & ORS Respondents

Through: Ms. Nandita Rao, ASC for R-1/State
with Insp. Virender Kumar

Ms. Jasbir Kaur, Mr. Manmeet Singh and Mr. Yash
Batra, Advocates for R-2 to 6

+ W.P.(CRL) 1590/2017

MS GUNJAN & ANR Petitioners

Through: Mr. S.A. Rajput, Advocate

versus

STATE (NCT OF DELHI) & ANR Respondents

Through: Ms. Nandita Rao, ASC for R-1/State
with Insp. Virender Kumar

Ms. Jasbir Kaur, Mr. Manmeet Singh and Mr. Yash
Batra, Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **24.05.2017**

Crl. M.A. 8841/2017 (Exemption) in WP (Crl.). 1585/2017

Crl. M.A. 8866/2017 (Exemption) in WP (Crl.). 1590/2017

Allowed subject to just exceptions.

WP(Crl.) 1585/2017 and WP (Crl.) 1590/2017

The petitioners are present in person with Mr. S.A. Rajput,
Advocate. The State on the basis of advance copy has appeared

WP(Crl.) 1585/2017 and WP (Crl.) 1590/2017

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through Ms. Nandita Rao, additional standing counsel. The second respondent Jagdish Kumar and fourth respondent Ashok Kumar, as per the array in WP (Crl.) 1585/2017 are also present in person on their own with counsel Ms. Jasbir Kaur, advocate.

Status report has been submitted. The parties present and their counsel have been heard. The record of investigation and the case diary have also been perused.

It needs to be noted that Jagdish Kumar, father of the first petitioner had lodged FIR no.247/2017 with police station Ranhola on 03.05.2017, *inter alia*, stating that his daughter (first petitioner) aged sixteen years six months had been missing and he had cause to suspect that she had been seduced away by someone. He filed a writ petition (criminal) no.1387/2017 praying for a writ of *habeas corpus* which came up before a division bench of this court on 08.05.2017 and 19.05.2017, copies of the orders recorded on which dates have been placed before this court for perusal. It appears the local police was unable to trace out the girl (first petitioner) missing at the stage of hearing of the said matter by the division bench. She has now surfaced, she being accompanied by the second petitioner (Sunny), both claiming to be major and to have married each other on 19.05.2017. Some documents and photographs in support of such claim of marriage have been submitted.

The investigation into the FIR is stated to have earlier revealed that the first petitioner had certain grievances against her family members and had indicated in writing that she was leaving the house of her own. She claims, on being asked, that her date of birth is 1998. Noticeably, she would not mention the specific date. Reliance is WP(Crl.) 1585/2017 and WP (Crl.) 1590/2017

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placed in this regard in the petition on the registration for issuance of *Aadhar* card on 21.05.2017 where the date of birth was declared as 09.10.1998. The document obviously cannot be taken as a clinching proof of the age of the first petitioner, such mention of the age being based only on declaration made after the elopement. In contrast, the police has collected the copy of the grade sheet-cum-certificate of performance of the Secondary School Examination (2014-2016) of Central Board of Secondary Education, Delhi, where the date of birth of the first petitioner is recorded as 09.10.2000. In this view, the first petitioner is, *prima facie*, less than seventeen years in age and, therefore, a child.

The police has added Section 366. IPC for taking the investigation into the FIR further. The matter would undoubtedly require thorough investigation in as much as allegations have been made that the first petitioner has been sexually exploited, her photographs in some indecent poses having been taken allegedly by the second petitioner and posted on social media, she either not being privy to such irresponsible acts of commission or not understanding the effect or import thereof. In these circumstances, the first petitioner is indeed a juvenile in need of protection of law.

On being asked, the first petitioner refused to go with her father who is present in the court. She has been informed by the father that her mother is also present outside the court. Since she declines to go with her parents, in the overall facts and circumstances, it will be proper that she is produced before the Child Welfare Committee immediately in the afternoon today itself so that appropriate directions as to her safe custody and welfare are issued in accordance

with law.

Inspector Virender Kumar of Anti Trafficking Unit of Crime Branch, who is the investigation officer is present in court. He is accompanied by W/HC Sunita, No.655/Crime. He is directed to take the necessary steps in above light forthwith.

Needless to add, the Child Welfare Committee shall undertake all necessary inquiries including for determination of the age of the first petitioner.

It is noted that the *habeas corpus* petition, it being WP (Crl.) 1387/2017, is listed before the division bench on 30.05.2017. Arrangements shall be made for the first petitioner to be produced before the division bench on the said date at the time of hearing on the said *habeas corpus* petition.

By WP(Crl.) 1590/2017, prayer is made for quashing of FIR 247/2017 of police station Ranhola. Given the above noted set of facts, there is no good ground to block the investigation or quash the FIR. The said writ petition is, therefore, dismissed.

Given the above set of facts, no further directions on WP (Crl.) 1585/2017 at this stage are called for. The said writ petition shall be listed on 17.07.2017 when the investigating officer shall submit an updated action taken report.

Dasti under the signatures of the Court Master.



R.K. GAUBA, J

MAY 24, 2017

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