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

+ CRL.M.C. 4679/2016 and CrI. M.A. 19500-19502/2016

PRADEEP KUMAR Petitioner

Through: Mr.H. Pratap Singh, Advocate

versus

STATE OF NCT OF DELHI Respondent

Through: Mr. Akshai Malik, APP with SI Jasbir
Malik, PS Ranhaula

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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19.04.2017

The petition at hand invoking Section 482 of the Code of Criminal Procedure, 1973 (Cr. PC) challenges the correctness of the view taken by the court of Additional Sessions Judge-01, West by order dated 23.11.2016 passed on the file of sessions case no.200/2015 arising out of report of investigation submitted on conclusion of investigation into FIR 765/15 of Police Station Ranhaula wherein the petitioner is facing trial on the charge for offences punishable under Sections 363 / 34, 366 /34, 376D/34 and 506/34 of Indian Penal Code, 1860 (IPC) and Sections 6 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO).

By the impugned order, the learned trial court had dismissed the application of the petitioner “for investigation” of the case under Section 173(8) Cr. PC, such prayer having been made on the grounds that the investigation carried out was not fair and that the two witnesses they being Constable Siya Ram and Constable Sri Bhagwan belong to the native place of the mother of the prosecutrix and that

on the relevant date they were falsely shown present having joined the investigation, the investigating agency also having failed to probe the existence of call detail records of the mobile phones of the petitioner and also of the prosecutrix.

The learned trial judge was not impressed and observed that the issues raised were subject matter of defences that could be urged during the trial which had already commenced with the charges having already been framed.

Having heard the learned counsel for the petitioner, this court finds no impropriety or error in the view taken by the trial judge. The fact that the investigation has been concluded and charges have been framed on the basis of evidence gathered indicates *prima facie* a case is made out for calling upon the petitioner to stand trial. If any such facts or material as is being referred to constitutes a valid defence, it is for the petitioner to bring the same before the trial court during the trial in accordance with law.

With these observations, the petition and the accompanying applications are dismissed.

R.K.GAUBA, J.

APRIL 19, 2017

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