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

+ **CRL.M.C. 2044/2018 & CrI.M.A. 7238/2018**

STATE (GNCT OF DELHI)

..... Petitioner

Through: Mr. Rahul Mehra, Standing counsel
with Mr. Ashish Dutta, APP for the
State with SI Khajan Singh, PS Pahar
Ganj.

versus

SANDEEP KUMAR

..... Respondent

Through: Mr. Sanjiv Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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13.07.2018

The present petition was filed by the State challenging the order dated 20.12.2017 of the Additional Chief Metropolitan Magistrate (Central), in the context of FIR No. 390/2017 of police station Pahar Ganj questioning the correctness of the observation that charge under Section 77 of Juvenile Justice (Care and Protection of Children) Act, 2015 is not made out on the stated facts and further also to challenge the grant of bail, against the said backdrop, to the respondent on the assumption that the case involves only offence under Section 188 IPC.

The learned standing counsel (criminal) appearing for the State clarifies that the prayer for cancellation of the bail order is not pressed, the concern of the State being only as to the observations *vis-a-vis* the offence

under Section 77 of Juvenile justice (Care and Protection of Children) Act, 2015. The standing counsel relies, *inter alia*, on order dated 15.02.2018 of division bench of this court in Writ Petition (Crl.) 2401/2017 *Asha vs. State Govt. of NCT of Delhi & Anr.*

The counsel for the respondent submits that he agrees, on instructions, that the questioned observations in the impugned order may be taken as tentative and not binding or conclusive, the issue to be kept open for consideration when the matter comes up for framing of charge before the Court of Magistrate at appropriate stage.

In the above facts and circumstances, the petition is disposed of with direction that the observation in the impugned order *vis-a-vis* the attractability or otherwise of offence under Section 77 of Juvenile justice (Care and Protection of Children) Act, 2015 will not be treated as binding or conclusive. The Magistrate shall hear both the parties at the appropriate stage when the question of charge comes up to be considered and, thereafter, pass a detailed reasoned order.

Dasti to both sides.

R.K.GAUBA, J

JULY 13, 2018

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