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

+ CRL.M.C. 5873/2018 and Crl.M.A.47755-47756/2018

DEVENDER SINGH & ANR. Petitioners

Through: Mr. S.C. Sagar, Advocate

versus

THE STATE (NCT OF DELHI) Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Mahesh Chand, PS NFC

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **22.11.2018**

The petition at hand arises out of the proceedings taken out in the special court (constituted under Protection of Children from Sexual Offences Act, 2012) for South-East District at Saket Court, New Delhi in relation to first information report (FIR) No.197/2017, registered on 01.07.2017 involving offences punishable under Sections 341/506/509/323/34 of Indian Penal Code, 1860 (IPC) read with Section 12 of POCSO Act of Police Station New Friends Colony, it now being a criminal case (SC No.383/2017) registered on the basis of charge sheet which was submitted in the said special court, leading to an order of cognizance being passed on 25.10.2017. The first petitioner was the investigating officer (IO) of the said case, the charge sheet having been submitted under the signatures of the second petitioner, he being posted at the relevant point of time as the Station House Officer (SHO) of the Police Station.

It appears that while considering the materials submitted with the charge sheet, on 17.07.2018 the special court had some reasons to record dissatisfaction and disapproval on account of various deficiencies including the charge sheet being silent about investigation into the role of certain persons specified in the said order, or about the directions of the Additional Chief Metropolitan Magistrate (ACMM) for registration of the FIR on the basis of complaint which had been preferred on 30.09.2016 and respecting reasons for delay in registration of the FIR.

The Special Court directed certain steps to be taken, the purport whereof was to bring such lapses, assumably “*dereliction of duty*” on part of the police officials to the vigilance branch of Delhi Police. In the wake of such directions by order dated 17.07.2018, a report of vigilance cell was submitted before the special court on 30.10.2018, the sum and substance whereof is that some inquiry has been held and disciplinary action is to be initiated on its basis. The Special Court took note of the gist of the report and has fixed the case for consideration primarily on the point of charge.

The petitioners by the present petition invoking Section 482 Cr.P.C. seek quashing of the orders dated 17.07.2018 and 30.10.2018.

All that the trial court has done by the aforementioned orders is to bring the deficiencies in the charge sheet to the notice of the disciplinary authority qua the concerned police personnel. There is no “*direction*” by the special court for any disciplinary action to be taken. Whether or not the matter necessitates such disciplinary actions lies within the prerogative of the disciplinary authority. The observations of the criminal court, to the extent recorded in the aforementioned two orders, cannot be treated as final,

conclusive or binding. The petitioners will have ample opportunity to prove facts to the contrary, not only in the disciplinary action, if any initiated, but also in the criminal case at appropriate stage.

The learned counsel for the petitioners, at this stage, submitted that he may be allowed to withdraw the present petition and the applications filed therewith, the petitioners reserving the right to raise all the contentions offering their explanations, at appropriate stage, before appropriate authority in the department or in the criminal court.

The petition and the applications filed therewith are dismissed as withdrawn.

Dasti under the signature of Court Master.

R.K.GAUBA, J.

NOVEMBER 22, 2018

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