

\$~21

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

+ CRL.M.C. 1471/2019 and Crl. M.A. 5843/2019

ARVIND KUMAR Petitioner
Through: Mr. Rahul Kumar Singh, Advocate

versus

THE STATE OF N.C.T OF DELHI & ORS Respondents
Through: Mr. Sanjeev Sabharwal, APP for State
Mr. S.K. Bhardwaj, Advocate for R-2 to 4

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

%

18.03.2019

The petitioner is an accused in the criminal case pending in the special court under the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) for offences punishable under Section 354A of Indian Penal Code, 1860 (IPC) and Section 8 of POCSO Act, on the basis of evidence gathered during investigation of first information report no.100/14 of police station Jafrabad, the offences allegedly having been committed against the second respondent (a girl child), third and fourth respondents being her parents. He has come up by the petition at hand invoking inherent jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973 to seek quashing of the said proceedings on the basis of a compromise deed dated 14.03.2018.

It is brought to the notice of the court by the Additional Public Prosecutor that the petitioner had approached this court earlier with

similar prayer by WP (CrI.) 2671/2016 which prayer was declined by order dated 14.09.2016. Though reference is made in the petition to the said earlier writ petition and its dismissal by order dated 14.09.2016, the only change in the circumstances reflected is that charge-sheet was later filed. It is noted that the earlier petition was founded on similar compromise deed dated 17.02.2016.

It is noted further that both the petition at hand and the petition earlier filed were presented and prosecuted through the same counsel i.e. Mr. Rahul Kumar Singh, advocate. On being asked to justify reiteration of the prayer, the counsel refers to decision dated 04.04.2016 in *CrI. M.C 1310/2016 Ravi Mishra Vs. State of NCT of Delhi*. It is noted that reliance on the decision in *Ravi Mishra* (supra) had been made even in WP (CrI.) 2671/2016 but the contentions urged on its basis were rejected.

The attention of the counsel for the petitioner is drawn to the ruling of the Supreme Court in *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641. The counsel fairly concedes that the offences involved here involve the element of “*mental depravity*”.

The counsel now submits that he may be permitted to withdraw the present petition and the application filed therewith, he assuring that no repeat petition of this kind shall be presented hereinafter.

The petition and the application filed herewith are dismissed as withdrawn.

R.K.GAUBA, J

MARCH 18, 2019/yg

CRL.M.C. 1471/2019

page 2 of 2