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

+ CRL.M.C. 1531/2019 and CrI.M.A.6093-6096/2019

VIJAY SINGH & ANR Petitioners

Through: Mr. Jinendra Jain, Advocate with
Mr. Chirag Aneja, Advocate

versus

THE STATE NCT OF DELHI & ANR Respondents

Through: Mr. Sanjeev Sabharwal, APP for the
State with WASI Usha Devi, PS
Mundka.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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20.03.2019

The allegations have been made against the petitioners in the case arising out of case FIR No.273/2013, under Sections 354/106/506 of Indian Penal Code, 1860 (IPC) and Section 8 of Protection of Children from Sexual Offences Act, 2012 of Police Station Mundka registered at the instance of the second respondent, the charge sheet having been filed, the petitioners concededly having been summoned upon cognizance being taken by the competent jurisdictional court. The charges are yet to be considered.

The petitioners have approached this court contending that the allegations are false. The petitioners place reliance on settlement of the dispute between Deepa, described as daughter of the first petitioner on one hand and Daya Kishan, father of the second respondent on the other concerning a matrimonial dispute, as formalized by execution of memorandum of understanding (MOU), purportedly of 27.03.2017. It does

appear that in the said MOU there is a reference to the parties having agreed to move this court for quashing of the cases/FIRs filed by one against other, but there is no reference made at all specifically to the case FIR No.273/2013, the second respondent not being a party to the said MOU. It is orally contended that the FIR of the present case was registered on account of the circumstances arising out of marital dispute.

Whether of not the allegations are true or motivated, is a question of fact which cannot be addressed or determined in the proceedings under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.). These are a matter of defence to be raised at the trial by the persons accused of the crimes. (*Rajiv Thapar and Ors. Vs. Madan Lal Kapoor, (2013) 3 SCC 330*).

Even otherwise, the offences involved herein include those punishable under Section 354 IPC and Section 8 of POCSO Act which carry element of “*mental depravity*”. Following 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*, this court declines to entertain this petition.

The petition is dismissed. This disposes of pending applications as well.

R.K.GAUBA, J.

MARCH 20, 2019

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