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

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Judgment delivered on: 14.03.2019

+ CRL.REV.P. 822/2016 & CrI. M.A. 19927/2016

THE STATE GOVT. OF NCT OF DELHI

..... Petitioner

versus

SHAUKENDER

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Ms. Meenakshi Dahiya, Adv.

For the Respondent : None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner – State impugns order on charge dated 13.07.2016 whereby respondent has been discharged of the offences under Section 354 Indian Penal Code (IPC for short) read with Sections 7 & 8 of The Protection of Children from Sexual Offences Act, 2012 (POCSO for short).

2. The allegations in the FIR are that the prosecutrix along with her sister had gone to V3S Mall where there was a game zone by the name of *Haunted House*. In the *Haunted House*, it was pitch dark and nothing was visible. It is alleged that one person held the foot of the

sister of the prosecutrix and in the process pocket of the jacket of her sister was also torn. When the door was opened, the respondent was alleged to be the person who was inside the haunted house and blocking their way.

3. The trial court has discharged the respondent of the said offence noticing that the respondent was an employee of *Haunted House* and was employed for the purposes of scaring people who visited *Haunted House*.

4. *Haunted House* is a gaming zone which is kept dark and people visit the same to get the thrill of getting scared. Respondent was an employee of *Haunted House* and is alleged to have been employed for giving the thrill of scaring people.

5. The case of the prosecution was that he held the foot of the sister of the prosecutrix and also in the process pocket of her jacket got torn. Respondent is sought to be charged under Section 354 IPC and Section 7 & 8 POCSO.

6. Section 354 IPC comes into play when a person assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty. Sections 7 & 8 of the POCSO Act require sexual intent and touching of particular parts of the body.

7. The statements of the witnesses do not suggest that respondent

has either outraged or attempted to outrage the modesty of the prosecutrix or her sister or with any sexual intent or otherwise touched any parts of the body referred to in section 7 POCSO.

8. On perusal of the record as well as the impugned order, I am of the view that ingredients of the Section 354 IPC and Sections 7 & 8 of the POCSO are not made out from the allegations levelled by the prosecutrix.

9. In view of the above, I do not find any infirmity in the impugned order dated 13.07.2016 and the view formed by the trial court that no charge is liable to be framed against the accused.

10. The petition is accordingly dismissed.

11. Order *Dasti* under signatures of Court master.

MARCH 14, 2019
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SANJEEV SACHDEVA, J