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

+ **CRL.REV.P. 1188/2019 and CRL.M.A. 40380/2019**

MRS. MENKA ARORA & ANR. Petitioners

Through: Mr Rajat Rai Dua, Advocate.

versus

STATE Respondent

Through: Mr Amit Gupta, APP for State.
Inspector Ajay Karan Sharma, PS
Patel Nagar.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **20.02.2020**

1. The petitioners have filed the present petition impugning an order dated 24.10.2019 passed by the learned ASJ, whereby charges were framed against the petitioner for commission of the offence under Sections 370/374/34 of the IPC; Sections 23/26 of the Juvenile Justice (Care and Protection of Children) Act, 2000; and Section 14 of the Child Labour (Prohibition and Regulation) Act, 1986.
2. The petitioners contend that charges under Section 370 of the IPC could not have been framed, as the offence in question was allegedly committed between the period 02.12.2012 to 08.01.2013 and FIR was filed in January, 2013. This was prior to the amended Section 370 of the IPC coming into force.
3. It is pointed out that Section 370 of the IPC, as it presently stands, was substituted by Act 13 of 2013 with retrospective effect from 03.02.2013. Prior to the said amendment, Section 370 of the IPC read as

under:

“370. Buying or disposing of any person as a slave.—Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

4. The petitioners contend that the learned Trial Court had not examined Section 370 of the IPC as it existed at the material time and has framed charges based on Section 370 of the IPC, as it currently stands.
5. Concededly, this contention was not advanced before the learned ASJ and therefore, the learned ASJ had no occasion to consider the same.
6. In view of the above, the petition is allowed and the impugned order dated 24.10.2019, to the extent that a charge has been framed against the petitioners under Section 370 of the IPC, is set aside. The matter is remanded to the learned ASJ to consider afresh whether any charge under the aforesaid provision is liable to be framed.
7. It is clarified that this Court has not disturbed the other charges as framed against the petitioners.
8. The petition is disposed of in the aforesaid terms.
9. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

FEBRUARY 20, 2020
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