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

+ **CRL.REV.P. 746/2023, CRL.M.A. 18465/2023**

HARPREET SINGH @VANSH

..... Petitioner

Through: **Mr. Pramod Kumar, Adv. (VC)**

versus

STATE AND ANR.

..... Respondents

Through: **Mr. Hemant Mehla, APP for the
State with SI Ankur, PS Nihal Vihar.**

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Date of Decision: 18th July, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 18466/2023

Exemption is allowed subject to all just exceptions.

CRL.REV.P. 746/2023

1. The present criminal revision petition has been under Section 397/401 Cr. PC challenging the impugned order dated 14.02.2023 whereby the learned ASJ (FTSC) (POCSO)-02 has framed the charges under Section 10 POCSO Act and Section 354/506 IPC.



2. Briefly stated facts of the case are that FIR no 413/2021 was lodged on the statement of M. Kaur @ M against the Petitioner alleging therein that the petitioner, who is the grandson of her mother's bua, used to visit her house along with his sister. She used to address the Petitioner as her brother. It is alleged that when the parents of the respondent had gone to Punjab for some work she received a phone call from petitioner and informed her that he was coming to her house. It is alleged that the petitioner molested her and also threaten her not to disclose anything to her family.
3. The chargesheet was filed under section 354/506 IPC and Section 10 POCSO Act. Thereafter, the charges were framed under sections 354/506 IPC and Section 10 POCSO Act by the learned Trial Court vide order on charge dated 14.02.2023.
4. Learned counsel for the petitioner submits that the learned Trial Court has fallen into grave error by *inter alia* holding that the petitioner is related by blood to the prosecutrix in view of Section 3 (c) of Hindu Marriage Act. Learned counsel submits that at the worst the petitioner was liable to be charged under Section 8 of POCSO. Learned counsel submits that the petitioner does not fall within the definition of section 9 (n) of the POCSO which provides as under:

Section 9 (n) whoever, being a relative of the child through blood or adoption or marriage or guardianship or in foster care, or having domestic relationship with a parent of the child, or who is living in the same or shared household with the child, commits sexual assault on such child;

5. Learned counsel submits that there is difference of punishment in Section 8 of POCSO Act and Section 10 of POCSO Act and if the



petitioner is tried for under Section 10 of POCSO it will seriously prejudice him. Learned counsel submits that therefore the order on charge is liable to be set aside.

6. I have considered the submissions. It is a settled proposition that in the revisional jurisdiction, the Court can interfere in the order of the learned Trial Court if there is any illegality, infirmity or perversity in the order. In the present case, the learned Trial Court has taken a view on the basis of which the charges have been framed under Section 10 of POCSO Act. This is only the stage of the charges being framed, the trial is yet to take place. It is also a settled proposition that in the revisional jurisdiction, the revisional Court will not substitute its own view with the view taken by the learned Trial Court unless the case suffers from any illegality, infirmity and perversity.
7. I do not find any illegality, infirmity and perversity in the order of the learned Trial Court. Hence, the present petition along with pending application stands dismissed.

DINESH KUMAR SHARMA, J

JULY 18, 2023

Pallavi