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

+ CRL.M.C. 908/2024

SHIV KUMAR

.....Petitioner

Through: Mr. Rajveer Pandey, Mr. Harshit
Hassanwalia, Mr. Sameer Aggarwal
and Ms. Nisha Rawat, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Nawal Kishore Jha, APP for State
with SI Rohit, P.S. Vasant Kunj
North.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

26.09.2024

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1. By way of present petition, the petitioner seeks quashing of FIR No. 496/2016 registered under Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter, 'JJ Act'), at P.S. Vasant Kunj, Delhi, and subsequent proceedings emanating therefrom.
2. The present FIR came to be registered on behalf of the victim against the present petitioner and 2 other co-accused persons, namely *Neelam Agnihotri* and *Bhawna Vats*, alleging that she was employed as a domestic help through the petitioner's maid agency business, '*Moirya Maid Consultant*' at the houses of the abovementioned two co-accused persons, while still being a minor at the time of the alleged employment. Notably, the present FIR qua *Neelam Agnihotri* stands quashed vide a judgment of this Court dated 05.04.2023 in Crl M.C. No.481/2023.



3. Learned counsel for the petitioner submits that in 2015, one *Mr. Kapito* bought the victim to the petitioner for the purpose of getting her employed through his maid agency business, stating her to be a major. It is further submitted that as per the usual course of business, the petitioner duly sought documents for the proof and verification of her age. Accordingly, the victim produced certain documents in support of her age verification, including a report of the National Register of Citizens (NRC) of Assam and a certificate issued by the Village Council of Development Committee, Kashikotra (Assam), as per which, her date of birth was shown to be 18.04.1994, making her around 21 years of age of the relevant time. It is also submitted that after duly verifying her age from the documents provided by her, the petitioner helped her get employment as a domestic help at the house of the co-accused, *Bhawna*, for a contract of 11 months, and upon being approached subsequently, further helped her get employed with another co-accused, *Neelam*.

Moreover, it is stated that upon a written complaint being filed by the victim with the CWC, District South under Section 27(9) of the JJ Act, the CWC had directed the petitioner to pay compensation of Rs. 24,000/- to the victim, and the same had been complied with by way of a demand draft bearing DD No. 000481 dated 23.02.2017 drawn on HDFC Bank. Thereafter, the petitioner was charged under Section 75 of the JJ Act, however, did not receive any summons up till 6 years later, the petitioner received a call from the police station to appear before the Trial Court for the proceedings. It is further stated that the trial has not commenced as yet.

4. Learned counsel brings the attention of the Court to the fact that during her employment with the co-accused, *Neelam*, an FIR was lodged at



the instance of the victim against the driver (*Jaleshwar Sahni*) of the said co-accused under Section 376 IPC being FIR No. 416/2016. However, the said driver was thereafter acquitted of this charge by the learned Trial Court on the grounds that the allegations were false.

5. Learned counsel further draws the attention of the Court to the judgment of a Coordinate Bench of this Court dated 05.04.2023, whereby the present FIR has been quashed qua the co-accused, *Neelam*, on the grounds that, *inter alia*, the victim had herself approached the petitioner herein to be employed at the house of the co-accused, *Neelam*, and that an ossification test was conducted, which had opined her to be not a minor at the relevant time and no other evidence had indicated otherwise.

Lastly, it is submitted that a *prima facie* reading of the averments made in the FIR would itself show that the ingredients of Section 75 JJ Act are not met against the present petitioner. It is contended that to fall within the ambit of Section of the 75 JJ Act, the child must have been subjected to assault, abuse, or exposure by an individual who had actual charge and control over the child. However, the petitioner, being the owner of the maid agency business, merely facilitated the process of her getting employed after duly verifying her age from age-proof documents provided by her. Moreover, there are no specific allegations in the FIR qua the petitioner, nor any evidence on record to suggest any physical harm or abuse inflicted upon the victim, causing her any mental or physical suffering. Accordingly, relying on the judgement of the Supreme Court in State of Haryana v. Ch. Bhajan Lal reported as **1992 Supp (1) SCC 335**, it is submitted that the present case is fit for quashing of the FIR and proceedings emanating therefrom.



6. Learned APP for the State opposes the present petition and submits that as per the ossification test report, the age of the victim was opined to be 18-20 years. When readalong with the JJ Act, the lower age shall be considered, making her 18 years of age at the time of filing of the complaint. It is contended that accordingly, the victim would have been a minor when employed through the petitioner's maid agency business at the respective houses of the co-accused persons as a domestic help. It is further submitted that it was the duty of the accused persons to verify her age at the time of employment and the question as to whether the certificate of age was given to and verified by the accused/petitioner or not is to be considered at the stage of trial.

7. I have heard the learned counsels for both the parties and perused the material placed on record.

8. The entire case pivots on the issue as to whether the victim was a minor or not. The Coordinate Bench of this Court, while quashing the present FIR qua the co-accused, *Neelam*, concluded that the victim was not a minor. Perusal of the FIR would show that there are no specific averments/allegations against the present petitioner and that undisputedly so, the petitioner had merely facilitated the employment of the victim through his maid agency business upon being approached by the victim herself. The victim herself had furnished her age related documents which also showed her to be a major. Considering the totality of the facts and circumstances noted hereinabove, the ingredients of the offence are not made out and no useful purpose will be served in continuance of the present criminal proceedings qua the petitioner. Accordingly, the present petition succeeds and the present FIR as well as the consequent proceedings arising therefrom



are hereby quashed qua the petitioner.

9. The petition is disposed of in the above terms.

MANOJ KUMAR OHRI, J

SEPTEMBER 26, 2024

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