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

+ **CRL.REV.P. 143/2020**

VISHAL SABHARWAL

..... Petitioner

Through: Mr. Vivek Gaur, Mr. Gaurav Gaur
and Mr. Rohit Sehgal, Advocates.

versus

STATE

..... Respondent

Through: Mr. Sunil Kumar Gautam, APP for
the State.

SI Rahul, PS Seemapuri.

Mr. Trilok Chand, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

09.02.2024

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1. The present petition under Sections 397/401 of the CrPC seeks the following prayers:

“In view of the aforesaid facts and circumstances, it is, most respectfully prayed that the impugned order dated 12.12.2019 passed by Sh. Devendra Kumar Sharma, Ld. Special Judge Pocso, District Shahdara, KKD courts, Delhi passed in FIR NO.430/18, U/s 354/504/34 IPG, R/w Sec.8 Pocso Act, P.S. Seemapuri, Delhi, against the revisionist may kindly be set aside in favour of the revisionist and the revisionist may kindly be discharged, in the interest of justice.

Pass any other order (d) /relief, which this Hon'ble Court deems fit and proper in favour of the revisionist and against the respondent, may also be passed, in the interest of justice.”

2. Learned counsel for the petitioner submits that the order on charge dated 12.12.2019 passed by the learned Trial Court does not discuss the video clipping of the incident filed by the Investigating Officer as a relied upon document alongwith the chargesheet. Attention of this Court is drawn



to order dated 28.02.2018 passed by learned ASJ-01, Special Judge (POSCO), Shahdra, Delhi, wherein, it has been recorded as under:

“Having heard the rival submissions on behalf of the parties and after perusing the statement of the victim and other material available on record, this Court is of the opinion that observation made at the time of disposal of bail application, has no merit at this stage and from the material available on record, prima-facie there is sufficient ground to frame the charge against the accused Vishal Sabharwal u/s 354/504 r/w Section 34 of IPC and under Section 8 of the POCSO Act and against the accused Om Narain Mehrotra under Section 504 r/w Section 34 of IPC.”

3. Learned counsel for the petitioner submits that despite the contention of the applicant with respect to the video clipping being raised before the learned Trial Court, the same was not considered and dealt with.
4. Learned APP for the State, on instructions of the Investigating Officer states that the said video clip is part of the chargesheet. Learned counsel for the complainant also confirms the fact that the video clip is part of the chargesheet.
5. A bare perusal of the impugned order on charge dated 12.12.2019 reflects that the said video clip has not been considered by the learned Trial Court while passing the said order.
6. In view of the above, the order on charge dated 12.12.2019 and the subsequent formal charge are set aside.
7. The parties are remanded back to the learned Trial Court. The learned Trial Court is directed to re-examine the contentions of the parties and pass necessary orders on charge, in accordance with law. The parties are directed to appear before the learned Trial Court on 13.02.2024.
8. The petition is allowed and disposed of with the aforesaid directions.
9. Pending applications, if any, also stand disposed of.



10. Copy of the order be sent to the concerned learned Trial Court for necessary information and compliance.

AMIT SHARMA, J

FEBRUARY 09, 2024/sn