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

+ **CRL.M.C. 3171/2024 & IA No.12242/2024**

PF & ORS.

..... Petitioners

Through: Mr. Ravinder S Gorla with Mr.
Shashank Singh, Ms. Liyi Noshi &
Mr. Sandeep Mishra, Advs.

versus

STATE OF GNCT DELHI

..... Respondent

Through: Mr. Raj Kumar, APP with SI Mukesh
Kumar, PS Tilak Nagar.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

14.05.2024

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1. The prayer in the present petition is to modify the order dated 8th May, 2023 passed by the learned Additional Sessions Judge (SFTC)-01, West District, Tis Hazari Courts whereby the application of the victims of human trafficking was allowed and they were directed to be repatriated to their national country i.e. Nigeria, subject to the following conditions:

“1. They would furnish the bond that they would appear before this Court as and when required.

2. Their repatriation shall be subject to the verification of their permanent address at Nigeria.

3. They shall provide the mobile number on which they would remain available during the pendency of the present case.



4. They will appear on every fourth Saturday at 10.00 am in the Indian Embassy of Nigeria before concerned Ambassador during pendency of the case.”

2. The learned counsel appearing on behalf of the petitioners submits that the conditions subject to which the petitioners were directed to be repatriated, have become irrelevant and are otherwise onerous inasmuch as the petitioners/victims have already been examined in the concerned case.

3. Notice in the petition was issued *vide* order dated 25th April, 2024 with direction to the State to file the Status Report. The Status Report has been filed by the State and the same is on record.

4. A perusal of the Status Report as well as the impugned order shows that the evidence of the three petitioners/victims who are Nigerian Nationals has already been recorded. Therefore, the condition that they shall furnish a bond to appear before the Court as and when required is futile and redundant. Similarly, there is no need to verify the permanent addresses of the victims as well as the need for furnishing their mobile number.

5. Likewise the condition that the petitioners/victims shall appear on every fourth Saturday at 10:00 am in the Indian Embassy of Nigeria before the concerned Ambassador during pendency of the case will not serve any useful purpose. It has to be borne in mind that the petitioners are victims and not accused of human trafficking. Moreover, their testimonies as witness have been recorded and they have been discharged.

6. The learned counsel appearing on behalf of the petitioners has also placed reliance on the office memorandum of the Ministry of Home Affairs dated 1st May, 2012 issued to combat human trafficking in India. The said



memorandum provides for victim – centric approach. The relevant part of the said memorandum reads as under:

*“No. 14051/14/2011-F.VI
Government of India
Ministry of Home Affairs
(Foreigners Division)*

Dated 1st May, 2012

OFFICE MEMORANDUM

Sub: Advisory on preventing and combating human trafficking in India - dealing with foreign nationals.

The undersigned is directed to refer to this Ministry's Office Memorandum No. 15011/6/2009-ATC (Advisory) dated 09.09.2009 on the above mentioned subject (copy enclosed). It has come to the notice of this Ministry that foreign nationals are associated in some instances of human trafficking among women and children.

2. Further to the detailed procedure outlined in the above mentioned Office Memorandum, it has been decided with the approval of the competent authority that in cases of foreign nationals who are apprehended in connection with human trafficking, the State Governments / UT Administrations may follow the following procedure:-

- (i) Immediately after a foreign national is apprehended on charges of human trafficking, a detailed interrogation/investigation should be carried out to ascertain whether the person concerned is a victim or a trafficker.*
- (ii) The victims and the persons actually involved in human trafficking should be treated differently by the police authorities. This is in line with the SAARC Convention which advocates a victim-centric approach.*
- (iii) Missions/Posts in India may be informed of the arrest/detention of the foreign national by the concerned*



state or other authorities through CPV division in the Ministry of External Affairs(MEA) or the concerned territorial Division in MEA.

(iv) It is seen that in general, the foreign victims of human trafficking are found without valid passport or visa. If, after investigation, the woman or child is found to be a victim, she should not be prosecuted under the Foreigners Act. If the investigation reveals that she did not come to India or did not indulge in crime out of her own free will, the State Government / UT Administration may not file a charge sheet against the victim. If the chargesheet has already been filed under the Foreigners Act and other relevant laws of the land, steps may be taken to withdraw the case from prosecution so far as the victim is concerned. Immediate action may be taken to furnish the details of such victims to the Ministry of External Affairs (Consular Division), Patiala House, New Delhi so as to ensure that the person concerned is repatriated to the country of her origin through diplomatic channels.....”

7. As it is not in dispute that the present petitioners are victims, their evidence has already been recorded and they have been discharged, therefore, the presence of the petitioners/victims before the learned Trial Court is no more required.

8. In these circumstances, the present petition deserves to be allowed. Accordingly, the impugned order dated 8th May, 2023 is modified and the four conditions mentioned therein and noted in opening para of this order, are dropped. The SHO/IO concerned is directed to take necessary steps for repatriation of the petitioners to their native country. It is further directed that the process of repatriation be expedited.

9. The FRRO shall ensure due cooperation in the said process. The SHO/IO shall forward a copy of this order to the FRRO for the necessary



compliance.

10. Copy of this order be also communicated to the concerned Ambassador of Indian Embassy of Nigeria through Ministry of External Affairs as well as through SHO/IO concerned.

11. With the aforesaid directions, the present petition along with pending application stands disposed of.

VIKAS MAHAJAN, J

MAY 14, 2024

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