



2024:DHC:8012



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

% Reserved on : 02.08.2024
Pronounced on : 01.10.2024

+ **CRL.M.C. 4837/2023 & CRL. M.As.18497/2023, 18499/2023**

NIRMALJEET KAUR

.....Petitioner

Through: Mr. Aman Nandrajog, Mr. Arjun Nanda, Advocates with petitioner in person.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for State with SI Ramesh Verma PS Lodhi Colony, New Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. By way of the present petition, the petitioner seeks quashing of FIR No. 162/2023 registered under Sections 21 of the Protection of children from Sexual Offences Act, 2012 (POCSO Act) at PS Lodhi Colony, New Delhi. Pertinently, the FIR was registered in the context of a complaint made on 29.12.2014 by some students of N* School against one *Rakesh Kumar Chaudhary*, who was the physics teacher in the abovementioned school.
2. In a nutshell, the facts relevant for the present petition are that some students of N* School were aggrieved with the behaviour of one of their teachers as he had passed objectionable remarks which amounted to sexual harassment. Aggrieved with the behaviour of the accused, the students complained about the same to their class teacher(s), who in turn brought the



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same to the knowledge of the petitioner, who being the senior most teacher at the school was officiating as Head of the School in absence of any designated Principal/ Vice Principal. The petitioner, on receipt of complaints on 29.12.2014 called for a meeting in which the accused as well as the aggrieved students and their parents were called. Eventually, on 19.01.2015, the petitioner lodged a formal complaint with the Police Station leading to registration of FIR No. 20/2015 under Section 354A IPC at P.S. Lodhi Colony. Later, Section 12 POCSO was also added. On conclusion of trial, the accused was sentenced, however, proceedings by way of present FIR were also initiated against the present petitioner for non-reporting of the incident. The petitioner has been summoned to face trial for offence punishable under Section 21 of POCSO.

3. Petitioner seeks quashing of the FIR by contending that ingredients of the offence are not satisfied in as much as the FIR against the accused teacher was registered on the complaint made by the present petitioner though after a delay of 19 days. Petitioner seeks to explain the delay in reporting by stating that the same was attributable to students themselves as well as their parents. In this regard, it is submitted that on receipt of the complaint, the petitioner had summoned the accused teacher alongwith students and their parents. The accused had apologized and had given a written assurance that he would not repeat the mistake in future. On this, the parents were satisfied and had rather given it in writing that they did not seek any complaint to the police. It is thus contended that the present is a case of delayed compliance and not of non-compliance of the mandate of Section 21 of POCSO Act. On this aspect, the petitioner has relied on the judgement of Coordinate Bench in the case of Jasvinder Kaur and Another



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v. State and Anr. reported as **2024 SCC OnLine Del 3337**. Additionally, it is contended that the other school authorities ought to have been arrayed as accused as they too had not acted promptly.

4. Learned APP while opposing the petition contended that in terms of mandate under Section 19 of the POCSO Act, the petitioner was obligated to immediately report the matter in writing to the concerned SHO. As she was the acting Principal of the school, she is liable to be proceeded against under Section 21 of the POCSO Act for failing to report the matter.

5. A perusal of material placed on the record would show that the incident relates to events that unfolded on 29.12.2014 in the form of an oral complaint received by the petitioner from students against the accused teacher relating to allegations of sexual harassment committed during school hours and in the school premises.

Though petitioner claims that on an apology tendered by the accused teacher, the students and their parents were satisfied, however the records show that the students and their parents had approached the Director of Education on 31.12.2014 and raised their complaints against the accused teacher. Apparently, the Joint Director (Vigilance), NDMC vide communication dated 09.01.2015 while referring to a note dated 01.01.2015 received from the Education Department asked the Dy. Director of N* School Educational Society to seek petitioner's explanation in the context of complaint against the accused teacher. The petitioner furnished her explanation stating that the teacher concerned was warned and the parents being satisfied didn't want further escalation.

6. Further perusal would reveal that vide noting dated 19.01.2015, the petitioner was directed by the school society to get the FIR registered. As



such, from the above sequence of events, it is discerned that the filing of the complaint by the petitioner is not a case of mere delayed compliance but rather no compliance till she was directed to do so by the school authorities. The act of students and their parents approaching the Director of Education also indicates that they were dissatisfied with the petitioner's response to their complaints. In fact, vide the above communication, the school authorities had formally issued a warning to the petitioner also.

7. The statute contemplates mandatory compliance and failure to report entails penal consequences. The statute has been enacted with the object to protect children from offences of sexual assault, sexual harassment and pornography. The Supreme Court in Eera through Dr. Manjula Krippendorf vs. State NCT of Delhi reported as **(2017) 15 SCC 133** had remarked on the statement and object of the POCSO Act as follows:

“20. The purpose of referring to the Statement of Objects and Reasons and the Preamble of the POCSO Act is to appreciate that the very purpose of bringing a legislation of the present nature is to protect the children from the sexual assault, harassment and exploitation, and to secure the best interest of the child. On an avid and diligent discernment of the Preamble, it is manifest that it recognises the necessity of the right to privacy and confidentiality of a child to be protected and respected by every person by all means and through all stages of a judicial process involving the child. Best interest and well-being are regarded as being of paramount importance at every stage to ensure the health physical, emotional, intellectual and social development of the child. There is also a stipulation that sexual exploitation and sexual abuse are heinous offences and need to be effectively addressed. The Statement of Objects and Reasons provides regard being had to the constitutional mandate, to direct its policy towards securing that the tender age of children is not abused and their childhood is protected against exploitation and they are given facilities to develop in a



healthy manner and in conditions of freedom and dignity....”

8. As per the petitioner’s own case, in terms of explanation furnished to the school authorities, she had become aware of the incident on 29.12.2014 itself. The incident relates to act committed by the school teacher to students in the school premises. The reporting of such an incident is envisaged to be mandatory under Section 21 of the Act. The petitioner’s reliance on the decision in Jasvinder Kaur (Supra) is misplaced as the said decision concerned with a case of delayed reporting. In the present case, as already noted above, the filing of complaint with police authorities was not a voluntary act of the petitioner. It was done only when the school authorities directed her to do so in pursuance to communications received from the Education department.

9. This Court at the stage of 482 Cr.P.C. will not go in the sufficiency of the explanation tendered by the petitioner and is of the considered opinion that in the peculiar facts of the case, no interference is called for. The petition is accordingly dismissed.

10. Petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

**MANOJ KUMAR OHRI
(JUDGE)**

OTOBER 1, 2024/js