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

+ **W.P.(CRL) 2686/2024**

A

.....Petitioner

Through: Mr.Trideep Pais, Sr.Advocate with
Mr.Ansh Singh Luthra
Mr.Harmanpreet Singh Kohli and
Mr.Madhav Kumar, Advocates

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr.Rahul Tyagi, ASC (Crl.) with
Sangeet Sibou, Mr.Jatin, Mr.Mathew
M.Philip, Ms.Priya Rai and
Mr.Abhishek Tomar, Advocates with
SI Jyoti, P.S. Subzi Mandi.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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02.09.2024

CRL.M.A. 26362/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

W.P.(CRL) 2686/2024

1. Writ Petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of petitioner 'A' with the following prayers:

"a. issue necessary directions to the concerned officials of P.S. Subzi Mandi, Delhi to register separate FIR in the captioned matter and take-up investigation in a fair and impartial manner on written complaint dated 05.08.2024 and 07.08.2024; and/or,



b. direct the S.H.O. P.S. Subzi Mandi, Delhi to assign a responsible, fair and impartial official to undertake investigation in the present case; and/or,

c. direct necessary action against SI Jyoti and S.H.O. , P.S. Subzi Mandi, Delhi for not following the mandate U/s. 19, punishable U/s. 21 POCSO Act and for their. ”

2. Issue notice. Learned ASC for the State appears on advance notice and accepts notice.

3. Learned Senior Advocate for the petitioner submits that in respect of incident of rape alleged by first complainant who is aged about 21 years, an FIR No.0428/2024 under Sections 74/75/76/64(1)/351(2) of the Bharatiya Nyaya Sanhita, 2023 ('BNS') was registered on 30.07.2024 at P.S. Subzi Mandi. The grievance of the petitioner is that though the second complainant (petitioner herein) who is a minor from the same family has lodged a complaint of sexual assault on 05.08.2024 in respect of the separate incident of sexual assault on 27.04.2024, against the same accused, a separate FIR has not been registered but her complaint has been clubbed alongwith earlier FIR which was registered on 30.07.2024.

4. Learned ASC for the State submits that since a complaint with respect to the incident dated 27.04.2024 was registered on 05.08.2024 by petitioner who is a family member of complainant in FIR No. 0428/2024 and facts appear to be connected, both complaints are being simulatenously investigated. However, he fairly submits that if directions are issued by this Court, a separate FIR can be registered in respect of alleged incident dated 27.04.2024, though both the FIRs being related, need to be simultaneously investigated.



5. Taking the statement of learned ASC for State on record, without expressing any opinion on the merits of the case, a separate FIR be registered in respect of alleged incident dated 27.04.2024, to avoid any prejudice to the victims/complainants in the respective cases. Petitioner obviously is at liberty to take any follow-up action in respect of prayers 'b' and 'c', in accordance with law which do not call for any orders at this stage.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

ANOOP KUMAR MENDIRATTA, J

SEPTEMBER 2, 2024/v