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

+ CRL.REV.P. 1126/2024

YOGESH KUMAR & ORS.Petitioners

Through: Mr. Arvind Kumar Gupta &
Mr. Manav Kumar, Advocates

versus

STATE OF NCT OF DLHIRespondent

Through: Mr. Hitesh Vali, APP for State
SI Ramavtar, PS Hauz Khas
Mr. Ripu Daman Bhardwaj (CGSC)
with Mr. Kushagra Kumar, Advocate

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

17.09.2024

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1. This petition seeks setting aside of impugned order dated 6th August 2024 passed by the ASJ, South District, Saket Courts, framing charges under Section 19 POCSO, against the petitioners, in FIR no. 304/2017 under section 377 IPC and section 10 POCSO.
2. Counsel for petitioner states that they were not named in statement of victim recorded under Section 164 Cr.P.C., however, they were named in the FIR.
3. The victim, who was minor, filed a written complaint on 4th September 2017 alleging that one Nikhil Arya in the Gurukul had committed carnal intercourse with him on 4th August 2017. Thereafter, Rampal, Subhash, Pradeep, Bhupesh and Yogesh pressurised him to compromise the said matter. Details of allegations are provided in the said complaint. However subsequently another incident happened, as per the victim, on 2nd September 2017 when the said Nikhil Arya sexually assaulted



him yet again in the toilet of the Gurukul. He corroborated his statement recorded under Section 164 Cr.P.C., by stating that some people had pressurised him for compromising the matter and got a letter signed. He also stated that he was beaten by the Principal of the Gurukul, whose disciple is Nikhil Arya and thereafter the alleged incident of 2nd September happened.

4. The Court has perused the facts of the matter including the complaint. The Trial Court, based on its analysis, concluded that charges be framed against main accused Nikhil Arya, as well as petitioners who pressurised the victim to file a compromise instead of reporting the incident, as was the statutory obligation under Section 19 POCSO Act, which invites offence punishable under Section 21 POCSO.

5. Counsel for petitioners' states that they were not in knowledge if any offence had been committed, which is intrinsic requirement under Section 19 offence to be made out.

6. He further contends that it is not borne out from statement recorded under Section 161 Cr.P.C. that victim mentioned this aspect to anybody else; on the contrary statement recorded under Section 164 Cr.P.C., he did mention names of said petitioners.

7. APP for the State has refuted these submissions and state that complaint was specific, mentioning the said petitioners in relation to pressure for compromise, even though their names were not reiterated in statement under Section 164 Cr.P.C. where he had stated that *some people* had pressurised him for compromising the matter.

8. In the opinion of this Court these are issues of fact which will have to be considered during trial as to whether after allegation of commission of carnal intercourse by Nikhil Arya, compromise was entered into, on pressure of petitioners, who are residents of the same Gurukul. *Prima facie*



compromise can only be entered into when there is knowledge of the incident which had taken place.

9. Plea of petitioners will be considered post-trial when evidence is actually recorded in this regard and they would have an opportunity to present their defence during the course of trial.

10. Counsel for petitioner states that on 4th September 2017 mother and sister of the victim informed the police, and on that basis, FIR was registered. He insists that incident was already reported to the police by the victim's family and hence there is no question of any obligation of reporting subsequently. It is however, quite evident from the complaint of the victim that post the first incident on 4th August 2017, he was forced to compromise and then after the second incident of 2nd September 2017, he gave a written complaint and the FIR was registered.

11. However, all these aspects are a matter of trial and shall be considered by the Trial Court at appropriate stage.

12. The petition is disposed of with these directions.

13. Order be uploaded on the website of this Court.

ANISH DAYAL, J

SEPTEMBER 17, 2024/sm