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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 7303/2024 & CRL.M.A. 27861/2024**

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.....Petitioner

Through: Mr. Shrutanjaya Bhardwaj with Mr.
Omkar Hemanth, Advocates.

versus

ASHOK KUMAR AND ORS.

.....Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI
ORDER
13.09.2024

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By way of present petition filed under Section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner seeks a direction to the learned Judicial Magistrate First Class, Tis Hazari Courts, New Delhi to dispose of her application filed under Section 156(3) Cr.P.C. pending *vide* Ct. Case No. 740/2024 before that court on the next date of hearing, which is stated to be 18.09.2024.

2. Though the present petition has been filed under the provisions of the Cr.P.C., in the opinion of this court, on a plain but meaningful reading of section 531(2)(a) of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), proceedings are to be "*disposed of, continued, held or made*" in accordance with the Cr.P.C. *only* in cases where ***such proceedings***, viz. "*any appeal, application, trial, inquiry or investigation*", were already ***pending*** immediately before the date on which the BNSS came into force, *i.e.* 01.07.2024. It appears therefore,



that while inserting the repeal and savings provision in section 531 of the BNSS, the intention of Parliament was to not disrupt on-going proceedings; and to therefore not change the governing law during the pendency of such proceedings.

3. Since the present petition is a fresh proceeding and has been *filed after 01.07.2024*, in the opinion of this court, the present petition ought to have been filed under the BNSS. Be that as it may, in order to obviate any unnecessary delay, the present petition is treated as one under section 528 of the BNSS.
4. Mr. Shrutanjaya Bhardwaj, learned counsel appearing for the petitioner submits, that the matter arises from a complaint dated 19.04.2024 relating to sexual harassment that she had addressed to the S.H.O., P.S.: I.P. Estate, Delhi against certain officers of the department where the petitioner works *i.e.* the Delhi Transport Corporation ('DTC').
5. Mr. Bhardwaj submits that complaint dated 19.04.2024 was not acted upon; which compelled the petitioner to file an application under section 156(3) before the learned Magistrate on 25.04.2024, which has been pending consideration ever-since.
6. Learned counsel submits, that would be seen from copies of the order-sheets appended as Annexure P-5 to the present petition, the learned Magistrate has called for Action Taken Reports ('ATRs') on two occasions and has also heard the matter on various dates, but is yet to decide the petitioner's application.
7. Mr. Bhardwaj informs the court, that the petitioner has also filed an application under section 91 Cr.P.C. seeking preservation of certain



CCTV footage of the petitioner's workplace, which application has also not yet been decided. Counsel submits, that considering the nature of the matter, namely that it concerns allegations of sexual harassment, an FIR is required to be registered urgently, and the CCTV footage in question is required to be preserved, lest the evidence in the matter is lost.

8. The record shows, that on the application under section 156(3) pending before him, the learned Magistrate has called-for an ATR on the very first date *i.e.* 27.04.2024, which ATR came to be filed on 30.05.2024, followed by another ATR which was filed on 04.07.2024. The record also shows, that in the meantime, in relation to the allegations of sexual harassment made by the petitioner, the DTC had commenced proceedings before its POSH Committee, but as recorded in order dated 22.07.2024 of a Co-ordinate Bench of this court passed in W.P.(C) No, 9879/2024, the petitioner had sought closure of those proceedings initiated by the DTC. Mr. Bhardwaj explains that the petitioner has no faith in the proceedings initiated within the DTC, which is what was recorded in order dated 22.07.2024 by which the said writ petition was disposed-of. A copy of the said order has been appended to the present petition.
9. Upon a perusal of the record, this court is unable to discern any inordinate or unexplained delay on the part of the learned Magistrate in deciding the application under section 156(3) pending before him.
10. That being said however, this court does appreciate the submission made on behalf of the petitioner that since the matter concerns allegations of sexual harassment made by the petitioner, the questions



as to whether an FIR is to be registered, and whether evidence by way of CCTV footage as sought by the petitioner is required to be preserved, require urgent attention.

11. In the circumstances, the present petition is disposed-of without issuing notice thereon, but requesting the learned Magistrate to take-up both the applications *i.e.* one filed under section 156(3) Cr.P.C. as well as the application filed under section 91 Cr.P.C., and to dispose them of expeditiously, in accordance with law.
12. The petition is disposed-of in the above terms.
13. Pending applications, if any, also stand disposed of.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 13, 2024/SS