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

+ CRL.M.C. 3710/2024, CRL.M.A. 14229/2024, CRL.M.A. 14230/2024, CRL.M.A. 14231/2024 and CRL.M.A. 14232/2024

KANWAL NAIN MIDHA & ORS.

..... Petitioners

Through: Mr.Abhishek Kaushik and Ms.Swati
Roy, Advocates

versus

STATE OF GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr.Sanjeev Sabharwal, APP for State
with SI Dinesh Joshi

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

08.05.2024

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1. By way of present petition filed under Section 482 Cr.P.C., the petitioners seek to assail the order dated 28.07.2023 passed by learned ASJ, South-East District, New Delhi, whereby the order dated 18.12.2018 passed by the learned MM-08, South-East directing framing of charges under Sections 380/451/34 IPC came to be upheld and the said charges were framed on 17.01.2019.

2. Facts as noted in the impugned order are that this Court in WP(C) No. 5367/2013 and CM Nos.12001/2013 and 12283/2013 passed a consent order dated 30.01.2014, thereby appointing *Ms. Sadhna Mittal*, Principal of Sarvodaya Kanya Vidyalaya, New Friends Colony as the Authorized Officer to run, administer and manage SRSD Senior Secondary School, Lajpat



Nagar-IV, New Delhi for a minimum period of one year. It was further directed that neither any member of the Managing Committee nor any Trustee would interfere with the administration during the said period and that if they had any record or movable/immovable assets of the school in their possession, they shall handover the same to the Authorized Officer within a period of two weeks. At the same time, it was clarified that if any paper relating to the Managing Committee or Trust were lying within the school premises, the Authorized Officer would facilitate to return of the same.

The said order dated 30.01.2014 came to be modified by this Court vide order dated 10.02.2014 passed in WP(C) 5367/2013. While a request was made to keep the room containing the papers of the Trust under lock and key till the operation of the arrangement made vide order dated 30.01.2014, the said request was rejected and it was directed that in case there were documents unrelated to the school and pertaining only to the Trust lying in the premises, the same could be removed within a period of two weeks after preparation of an inventory in the presence of the Authorized Officer.

3. Consequently, an FIR bearing No.540/2014 came to be registered against the petitioners under Sections 380/506/34 IPC at P.S. Amar Colony. In the FIR, it has been alleged that on 14.02.2014 at around 2:30 PM, the petitioners wrongfully entered the room where the documents relating to SRSD Senior Secondary School were kept and removed the documents/almirah without giving due intimation to the Authorized Officer. Further, it has been alleged that when the guards attempted to stop them, they intimidated the guards with dire consequences. After investigation,



chargesheet came to be filed under the aforesaid sections and thereafter the order dated 18.12.2018 was passed, thereby ordering framing of charges against the petitioners.

4. Learned counsel for the petitioners has contended that the orders passed by the learned MM as well as learned ASJ are erroneous and have been passed without due consideration of the facts and circumstances of the case. It is stated that the petitioners have been kept in Column 12 in the chargesheet and that there is no justification in the subsequent framing of charges against them.

Insofar as the alleged incident of theft is concerned, it is contended that the documents/almirah, which are stated to have been stolen, belonged to the Managing Committee/Trust and further that the room in which the alleged incident occurred was in the possession of the petitioners. Lastly, it is submitted that the documents/almirah, which were taken, were within the knowledge of the Authorized Officer.

5. Learned APP for the State, on instructions, submits that the petitioners were kept in Column 12.

6. At the outset, it must be noted that consequent to passing of the order dated 30.01.2014 by this Court, the Managing Committee/Trust of SRSD School (and by extension, the petitioners) were divested of the possession and control over all the documents/assets, even though the formality of handing over was delayed to a certain period (i.e. within two weeks). The mere fact that physical possession of the documents/assets was not changed, in and of itself cannot lead to the conclusion that the petitioners continued to be in possession and control of the assets.

On the contention raised by the petitioners that the documents



belonged to the Managing Committee/Trust (and by extension, the petitioners), it should be noted that there is nothing placed on record which can conclusively determine that the said documents belonged to the petitioners. The same is a matter of trial, requiring evidence to be led. Even so, if the petitioner's contention is taken at the bar, the order dated 30.01.2014 clearly notes that if any papers relating to the Managing Committee/Trust were lying within the school premises, the Authorized Officer would facilitate their return. Thus, if the petitioners wanted possession/return of papers/documents, they should have made appropriate request to the Authorized Officer, who would have taken appropriate steps in this regard.

7. Considering the aforesaid facts and circumstances of the case including the fact that the order dated 30.01.2014 is categorical on the aspect of transfer of possession of assets from the Managing Committee/Trust to the Authorized Officer and the further fact that petitioners could have made appropriate request to the Authorized Officer for return of documents/papers, this Court finds no ground to entertain the present petition. This Court finds no infirmity in the order passed by the learned MM, thereby ordering framing of charge against the petitioner, as well as the order passed by the learned ASJ, thereby upholding learned MM's order.

8. The petition alongwith pending applications is disposed of in the above terms.

MANOJ KUMAR OHRI, J

MAY 8, 2024/rd