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

+ CRL.M.C. 915/2025

YAHYA KAMAL

....Petitioner

Through: Mr. Deepak Kumar and Mr. Puneet
Singh, Advocates.

versus

STATE (N.C.T. OF DELHI) & ANR.

.....Respondents

Through: SI Chandani, PS I.P. Estate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

15.04.2025

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1. The Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) has been filed on behalf of the Petitioner, Yahya Kamal, for challenging the Order dated 16.12.2024, *vide* which the learned ASJ (FTSC) (POCSO), tis Hazari Courts, Delhi, has taken cognizance on the Charge-Sheet filed in FIR No. 325/2024 under Section 6(1)/74 of Bharatiya Nyaya Sanhita, 2023 (*hereinafter referred to as 'B.N.S.'*) and Section 6/8 of POCSO Act, registered at Police Station I.P. Estate.

2. It is submitted that there are material discrepancies in the Charge-Sheet. The alleged incident happened at 2:30 p.m. but the FIR has been registered at 11:30 p.m. Such delay has not been explained and is fatal to the entire prosecution case. It is further contended that the medical of the Prosecutrix, was conducted twice. In the first MIC, she gave the history of alleged sexual assault. However, in the second MLC, she stated that she was



assaulted for three years on the false pretext of marriage. She was in relationship with him. It is further contended that the Prosecutrix in her Statement recorded under Section 180 of B.N.S.S., had stated that she had no sexual relationship with the Respondent No. 2 and that she had only being friendly with him and she had been pressurised by the Police, to register the Complaint against the Respondent No. 2. It is, therefore, submitted that the Order of cognizance be set-aside

3. **Learned APP for the State**, on instructions from the Investigating Officer, submits that the matter is fixed for framing of Charges for 30.04.2025. It is further explained that there are no two MLCs. The first MLC was prepared in the Emergency and then was referred to the Gynaecologist, to prepare the subsequent MLC and there are no inherent contradictions in the two statements made by the Prosecutrix in giving the alleged history.

4. It is submitted that there is no merit in the present Petition and the same be dismissed.

5. **Submissions heard and the record perused.**

6. Insofar as, the delay of about nine hours in registration of FIR is concerned, it is a moot point as the alleged incident happened at 2:30 p.m. while the FIR has been registered at 11:30 p.m. Moreover, it is settled law that the delay especially in sexual assault cases if sufficiently explained during the trial, would not be fatal to the case of the prosecution. At this stage of taking of cognizance, the FIR may have got registered after about nine hours, but it cannot at this stage be said that there was an inordinate delay or that this is a ground for quashing of FIR.

7. **Second ground** of their being two MLCs prepared on the same day



with some change in the alleged history, is also incorrect as in both the MLCs, she has given a Statement of being sexually assaulted by the Respondent No. 2. Therefore, this is also not a ground for quashing of the Order of cognizance.

8. **The third ground** is that in her Statement under Section 164 and 180B of B.N.S.S., 2023, she has denied being sexually assaulted. However, her Complaint as well as the history given in MLC, cannot be discarded at this stage. In any case, these contentions can be taken by the Petitioner at the time of arguments on Charge.

9. There is no ground for quashing of the aforesaid FIR and the order on cognizance dated 16.12.2024.

10. The Petition is hereby dismissed and disposed of accordingly.

NEENA BANSAL KRISHNA, J

APRIL 15, 2025/RS