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

+ CRL.M.C. 284/2021, CRL.M.A. 1469/2021 (stay)

PAMELA BHARDWAJ & ANR.Petitioners

Through: Counsel for Petitioners (appearance
not given)

versus

GOVT OF NCT OF DELHI & ANR.Respondents

Through: Mr. Utkarsh, APP for the State with
SI Vijay Pal Singh, Nanak Pura.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

28.03.2025

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CRL.M.C. 284/2021

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*) has been filed on behalf of the Petitioners/accused for setting-aside/quashing the impugned Statement dated 31.01.2020 whereby the statement under Section 294 of Cr.P.C. of the two accused, have been recorded.

2. Briefly stated, FIR No. 32/2008 under Section 498-A/406/34 of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*) dated 16.06.2008 was registered at Police Station Nanakpura, New Delhi, against the Petitioners, on the Complaint of the Respondent No. 2. The Complainant in her testimony on 16.03.2017 deposed regarding the disputed amount of Rs.5,88,349/-, which was given for the admission of Aditi, sister-in-law of the Complainant, in Dental College.



3. The Admission/Denial of the documents under Section 294 Cr.P.C., was done on 16.07.2019. Thereafter, PW-3, Ramesh Vashisht, father of the Complainant, was examined on 31.01.2020 wherein he deposed about the allegations made in the Complaint, but did not say a word about the alleged amount of Rs.5,88,349/-.
4. Thereafter, the learned Trial Court called the Petitioners and recorded their Statements under Section 294 Cr.P.C. on 31.01.2020, without any document being put to them or any Application filed in this regard, by the Prosecution.
5. It is submitted that Section 294 Cr.P.C. pertains to admission/denial of the documents either by the Complainant or the Petitioners/accused persons. It does not envisage any recording of statements of the accused persons. Pertinently, soon after recording of the statement of the Petitioners/accused on 31.01.2020, the statement of the accused persons under Section 313 of Cr.P.C., was recorded on 18.02.2020.
6. It is submitted that this statement of the accused persons, has been erroneously recorded under Section 294 Cr.P.C. and the impugned Order along with the statement of the accused persons, may be quashed.
7. **Learned counsel for the Respondent No. 2** has argued that this statement in fact, is nothing more than the Admission/Denial of the documents, which had been collected by the Investigating Officer. It cannot be said that this is a statement independent of the documents and therefore, has been validly recorded by the learned Metropolitan Magistrate and the present Petition is liable to be rejected.
8. **Learned APP for the State**, has argued that in fact, the recording of statement under Section 294 Cr.P.C., was only to fill up the lacuna in the



evidence of the prosecution, which could not have been allowed and the Order is liable to be set-aside.

9. Submissions heard and the record perused.

10. Section 294 Cr.P.C. provides for no formal proof of certain documents. It provides that any document which may be filed in the Court by prosecution or the accused particulars of which be filled out in the list, the pleader or the prosecution or the accused, shall be called upon to admit/deny the genuineness of such document.

11. This exercise under Section 294 Cr.P.C. had been conducted in the present proceedings on 16.07.2019. Thereafter, the prosecution witnesses were recorded.

12. Subsequent to the conclusion of prosecution evidence, learned Metropolitan Magistrate has chosen to record the statement of the two accused, namely, Ajay and Pamela Bhardwaj under Section 294 Cr.P.C. on 31.01.2020, which reads as under:-

“We do not dispute the factum of transfer of Rs.5,88,349/- (7500 USD) by Ramesh Vashisht for admission of Aditi in Dental College, Gurgaon. However, we had already given Rs.5,00,000/- to Ramesh Vashisht and thereafter he had made payment for the admission of Aditi.”

13. It is clearly evident from the statement that it does not pertain to admission/denial of the documents but is a statement in regard to the facts involved in the present case. Clearly Section 294 CrPC does not envisage such recording of the statements of the witnesses or of the accused persons. Pertinently, immediately thereafter, the statement of the accused persons, were recorded under Section 313 CrPC wherein such statements could have been easily made by the accused persons. Clearly the impugned statements



recorded on 31.01.2020 is against the basic provisions of law and is, therefore, set-aside.

14. The Petition is disposed of accordingly. Pending Application, if any, stands disposed of.

NEENA BANSAL KRISHNA, J

MARCH 28, 2025/RS