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

+ **CRL.REV.P. 142/2019 & CRL.M.A. 2612/2019**

THE MANAGING DIRECTOR, THE INDIAN EXPRESS (P)
LIMITED

.....Petitioner

Through: Mr. N. B. Joshi, Mr. Neeraj K. Gupta,
Mr. Sahil and Mr. Akshay Agarwal,
Advocates.

versus

THE SECRETERY, DISTRICT LEGAL SERVICES AUTHORITY
(EAST)

.....Respondent

Through: Mr. Harsh Prabhakar, Mr. Dhruv
Chaudhry and Mr. Adeeb Ahmad,
Advocates.

Mr. Mukesh Kumar, APP for the
State.

+ **CRL.REV.P. 257/2019 & CRL.M.A. 4886/2019**

EDITOR IN CHIEF OF THE INDIAN EXPRESS (P) LIMITED

.....Petitioner

Through: Mr. N. B. Joshi, Mr. Neeraj K. Gupta,
Mr. Sahil and Mr. Akshay Agarwal,
Advocates.

versus

THE SECRETARY, DISTRICT LEGAL SERVICES AUTHORITY
(EAST)

.....Respondent

Through: Mr. Harsh Prabhakar, Mr. Dhruv
Chaudhry and Mr. Adeeb Ahmad,
Advocates.

Mr. Mukesh Kumar, APP for the
State.



+ **CRL.REV.P. 423/2019 & CRL.M.A. 7615/2019**

THE INDIAN EXPRESS (P) LIMITED AND ORSPetitioners

Through: Mr. N. B. Joshi, Mr. Neeraj K. Gupta,
Mr. Sahil and Mr. Akshay Agarwal,
Advocates.

versus

THE SECRETARY, DISTRICT LEGAL SERVICES AUTHORITY
(EAST)Respondent

Through: Mr. Harsh Prabhakar, Mr. Dhruv
Chaudhry and Mr. Adeeb Ahmad,
Advocates.
Mr. Mukesh Kumar, APP for the
State.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
11.02.2025

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1. The present revision petitions are directed against the order dated 05th December, 2018¹ passed by the Additional Sessions Judge-cum-Presiding Officer of Special POCSO Court for East District², issuing and framing notice under Section 251 of the Code of Criminal Procedure, 1973³ to the Petitioners.

2. On this issue, without going into the merits of the case, the Petitioners had urged that there was a procedural infirmity in the impugned order. This fact was taken note of in the previous order dated 23rd January, 2025, which reads as follows:

“1. The present petition under Section 397 of the Code of Criminal

¹ “Impugned order”

² “ASJ”

³ “CrPC”



Procedure, 1973 assails the order on charge dated 5th December, 2018 passed by the ASJ, Karkardooma Courts, Delhi, passed in Misc. Crl. No. 24 of 2018, whereby the Petitioners have been charged with offences punishable under Section 23 of Protection of Children from Sexual Offences Act, 2012 read with Section 74 of the Juvenile Justice Act, 2015.

2. *At the outset, counsel for the Petitioner points out that there is an error in the Impugned Order, in terms of the jurisdiction exercised by the Trial Court. Placing reliance on Section 33 of POCSO Act, it is emphasised that, while taking cognizance of any offence under the said Act, the Special Court is required to follow the procedure enshrined in the Chapter XVIII of Cr.P.C., in relation to Trial before a Court of Session. However, in the Impugned Order, the Trial Court has taken a different view, which is apparent from the following extract:*

“Since in view of the mandate of section 33 of POCSO Act, this court being the cognizance taking court, any offence committed under POCSO Act shall be tried by following the procedure for trial as per the procedure provided for a summon triable case. Therefore, the argument of defence that procedure provided for trial before a Court of Sessions in Chapter XVIII is to be followed in the present case, is completely baseless and misconceived.”

[Emphasis Added]

3. *Considering the above contention, the Court has called upon Mr. Mukesh Kumar, APP for the State to assist this Court on the questions of law raised in the present petition.*

4. *Mr. Kumar seeks a short accommodation to examine the case and formulate his submissions. The Registry is directed to provide a soft copy of the lead matter being – CRL.REV.P. 142/2019 to Mr. Kumar.*

5. *List on 30th January, 2025.”*

3. Mr. Mukesh Kumar, APP for the State, acknowledges that under Section 33(9) of the Protection of Children from Sexual Offences Act, 2012⁴, the procedure required to be followed by the Special Court for the purpose of trial of any offence under the Act, have to be in accordance with procedure specified for trial before a court of Sessions Judge under the CrPC.



4. However, the impugned order directs notice under Section 251 CrPC to be served upon the accused persons for offences punishable under Section 23 of POCSO Act and Section 74 of Juvenile Justice (Care and Protection of Children) Act, 2015⁵. This is contrary to the procedure provided under Section 33(9) of the POCSO Act which requires a Special Court to try offences under the Act as if it were a Court of Session and in accordance with the procedure specified under the CrPC for trial before a Court of Session.

5. Accordingly, since there is a procedural infirmity apparent on the face of the record, the present revision petitions are allowed and the order dated 05th December, 2018 whereby notice has been framed against Petitioners, is hereby set aside. Accordingly, the matter is now remanded back to the ASJ for further proceedings in the matter, specifically following the procedure envisaged under Section 33(9) of POCSO Act.

6. At this stage, counsel for the Petitioners points out that during the pendency of the present proceedings, this Court *vide* order dated 05th February, 2019, had granted an interim stay on the impugned order. He submits that since then, because no effective hearing has taken place before the Trial Court, the Petitioners were represented by their counsel. However, it is argued that on 07th February, 2025, Non-Bailable Warrants have been issued against Petitioners. In this regard, it is noted that although the order issuing such Non-Bailable Warrants has not been shown to the Court, nonetheless, a print out of the daily status of proceedings, as available on the e-courts website, has been handed over across the board. The said daily

⁴ “POCSO”

⁵ “JJ Act”



status reflects the status as “NBW” and indicates that the next date of hearing before the ASJ is 18th March, 2025.

7. In absence of any judicial order issuing the Non-Bailable Warrants, no comment can be made on this issue. However, considering the daily status reflecting on the e-courts website and since there was an interim stay on the impugned order till now, it is directed that no coercive action be taken against the Petitioners, subject to them appearing before the Trial Court on 18th March, 2025 – i.e., the next scheduled date of hearing.

8. Counsel for the Petitioners further requests that the Petitioner in CRL.REV.P. 142/2019, Mr. Viveck Goenka, who is resident of Mumbai, be exempted from personal appearance as he is attending to his ailing wife who is suffering from cancer and is undergoing treatment for her illness.

9. Considering the above, it is directed that the personal appearance of Mr. Viveck Goenka before the Trial Court on 18th March, 2025 be exempted and he shall be allowed to appear through his legal counsel. It is clarified that for any further exemptions, the said Petitioner shall be at liberty to make a request before the Trial Court, which shall be considered, in accordance with law.

10. With the above directions, the present revision petitions are disposed of, along with pending applications.

11. All rights and contentions of parties are left open.

12. *Dasti* under the signatures of Court Master.

SANJEEV NARULA, J

FEBRUARY 11, 2025

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