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

+ W.P.(CRL) 1039/2023 & CRL.M.A. 18550/2023

MS B THROUGH HER MOTHER AND ANR.

.....Petitioners

Through: Mr. S. D. Windlesh, Advocate.

versus

GOVT OF NCT OF DELHI & ANR. & ORS.Respondents

Through: Mr. Sanjay Lao, Standing Counsel for
the State.

Insp. Neera Singh, DIU/ NE.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

16.09.2025

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1. The present petition under Articles 226/227 of the Constitution of India, read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (erstwhile Section 482 of the Code of Criminal Procedure, 1973)¹ seeks the following reliefs:

- "A. *To examine the role of Ld. Trial Court of MM 05 in exceeding his powers under 156(3) CrPC in repeatedly summoning senior police officers before him and justified in putting pressure upon them and directing the investigating agency to include more stringent sections of IPC like 308 and 328 IPC in FIR 721/2022, without considering the Investigating agency reports or medical reports and also further justified in directing the investigating agency to get the statement of complainant who is accused under POCSO Act recorded under section 164 CrPC after lapse of three months of incident that too when the complainant was continuously changing his version of allegations made against the brother of the minor rape victim; and*
- B. *To quash addition of further sections 308 and 328 IPC in FIR no. 721/2022 by the investigating agency; and*

¹ "Cr.P.C."



- C. *For issuance of writ of mandamus or any other type of direction as this Hon'ble Court may deem fit and just directing respondent no. 1 to initiate disciplinary action against the IO WSI Sujata for not conducting investigation as per law and submitting sham, incomplete, farce, fake and false charge sheet without arrest thereby favoring the accused persons in FIR 722/2022: and*
- D. *For issuance of writ of mandamus or any other type of direction as this Hon'ble Court may deem fit and just directing further investigation by crime branch in FIR No. 722/2022 u/s 354, 354A, 354D, 376, 506 IPC r/w 6, 8, 12 POCSO Act PS Jafrabad lodged by minor sister of the accused in FIR 721/2022: and*
- E. *For issuance of writ of mandamus or any other type of direction as this Hon'ble Court deem fit and just for expunging the adverse remarks made by the Ld. Trial Court against the counsel when he tried to assist the Ld. Trial Court with true and correct facts of the case.”*

2. Counsel for the Petitioners contends that FIR No. 721/2022, registered at P.S. Jafrabad on the complaint of Mohd. Sahil alleging offences under Sections 323/342/506/34 of the Indian Penal Code, 1860² against Petitioner No. 2, was lodged without proper investigation and lacks factual foundation. It is submitted that the said FIR is a counterblast to FIR No. 722/2022 under Sections 354/354(A)/354(D)/506 of IPC and Sections 8/12 of the Prevention of Children from Sexual Offence Act, 2012 wherein Mohd. Sahil is accused of sexually assaulting the minor sister of Petitioner No. 2.

3. He further contends that the Magistrate exceeded jurisdiction under Section 156(3) of Cr.P.C. by repeatedly summoning senior police officers and directing the Investigating Agency, in connection with FIR No. 721/2022, to incorporate graver offences under Sections 308 and 328 of IPC. Pursuant to such directions, a chargesheet came to be filed in 2023 under Sections 308/323/342/328/506/34 IPC, although, it is contended that the medical evidence discloses only simple injuries and does not justify the

² “IPC”



invocation of Sections 308 or 328.

4. Since the matter is presently at the stage of arguments on charge, counsel for the Petitioners submits that he wishes to withdraw the present petition with liberty to urge all the grounds raised herein before the Trial Court at the appropriate stage. He further seeks liberty to avail appropriate remedies in accordance with law in the event the order on charge is adverse to the Petitioners.

5. Dismissed as withdrawn, with liberty as aforesaid.

6. Pending applications are also disposed of.

7. The Court has not commented on the merits of the case. All rights and contentions of the parties are left open.

SANJEEV NARULA, J

SEPTEMBER 16, 2025

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