



\$~60

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(CRL) 1502/2025

SONU JOLLY

.....Petitioner

Through: Mr. Arvind Singh & Mr.
Surendra Kumar
Chaudhary, Advs.

versus

STATE NCT OF DELHI AND ORS.Respondents

Through: Ms. Rupali
Bandhopadhyaya, ASC for
the State along with Mr.
Abhijeet Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

%

06.05.2025

1. By way of the present petition, the petitioner/ accused seeks fair investigation in the FIR No.210/2025 dated 31.03.2025, registered at Police Station Bindapur, under Section 65(2) of the Bharatiya Nyaya Sanhita, 2023 and Section 6 of the Protection of Children from Sexual Offence Act, 2012.
2. The petitioner also seeks certain directions to the manner in which the investigation may be carried out.
3. The learned Additional Standing Counsel ('ASC') for the State, at the outset, submits that the investigation will be carried out in the most fair and impartial manner. She submits that the concerned officer would also be sensitised in that regard.
4. In regard to the prayer seeking direction to the Police to get Narco analysis / Brain Mapping Test, DNA Matching etc. done, is concerned, it is a settled law that the Court exercising the jurisdiction, is not to direct the authorities to conduct the investigation in a particular manner. If the petitioner is aggrieved



that the final report has been filed without proper investigation, he is at liberty to file an appropriate application at that stage before the learned Trial Court. However, no direction in the nature of Mandamus directing the Police Authorities to investigate in a manner as desired by the petitioner/ accused, can be passed, while exercising the power under Article 226 of the Constitution of India. The Hon'ble Apex Court in **D. Venkatasubramaniam v. M.K. Mohan Krishnamachari : (2009) 10 SCC 488** held that, Courts in exercise of jurisdiction under Article 226 of the Constitution as well as Section 482 of the Code of Criminal Procedure, 1973, should generally avoid interference with the statutory power of police to carry out investigation. The relevant portion of the judgement is extracted hereunder:

“27. This Court while observing that it was not appropriate for the High Court to issue a direction that the case should not only be investigated but a chargesheet must be submitted, held : (M.C. Abraham case [(2003) 2 SCC 649 : 2003 SCC (Cri) 628] , SCC p. 660, para 18)

“18. ... In our view the High Court exceeded its jurisdiction in making this direction which deserves to be set aside. While it is open to the High Court, in appropriate cases, to give directions for prompt investigation, etc. the High Court cannot direct the investigating agency to submit a report that is in accord with its views as that would amount to unwarranted interference with the investigation of the case by inhibiting the exercise of statutory power by the investigating agency.”

(emphasis is ours)

It is worthwhile to notice that the directions in the said case were issued by the High Court of Bombay in a writ petition filed in public interest in which a grievance had been made that though the Provident Fund Commissioner has lodged a complaint against several Directors, the investigation has made no progress on account of the fact that the Directors were government servants and enjoying considerable influence. The High Court issued a series of directions which were challenged in this Court contending that the High Court was in error in exercising jurisdiction under Article 226 of the Constitution resulting in unjustified interference of the investigation of the



case. It is, therefore, clear that the High Court, in exercise of its power under Article 226 of the Constitution of India, cannot direct the investigating agency to investigate the case in accord with its views as that would amount to unwarranted interference, equally no such directions could be issued in exercise of inherent jurisdiction under Section 482 of the Code 28. Tested in the light of the principles aforesaid, the impugned order, in our considered opinion, must be held to be an order passed overstepping the limits of judicial interference. 29. It was observed by this Court on more than one occasion, that even in public interest litigation proceedings, appropriate directions may be issued and the purpose in issuing such directions is essentially to ensure performance of statutory duty by the investigating agency. The duty of the court in such proceedings is to ensure that the agencies do their duties in compliance with law. The inherent power of the High Court is saved to interfere with the proceedings pending before a criminal court if such interference is required to secure the ends of justice or where the continuance of the proceedings before a court amounts to abuse of the process of court. Such a power under Section 482 of the Code is always available to the High Court in relation to a matter pending before a criminal court.”

(emphasis supplied)

5. At this stage, it is pointed out by the learned ASC for the State that the petitioner has been absconding and has not joined the investigation. She submits that the Non Bailable Warrants (‘NBW’) have already been issued against the petitioner. The petitioner though claims that the NBWs have been issued without properly appreciating the facts.

6. Be that as it may, I am of the considered opinion that extraordinary discretionary jurisdiction under Article 226 of the Constitution of India ought not to be exercised in favour of a party which is evading the process of law.

7. The petition is, therefore, dismissed.

AMIT MAHAJAN, J

MAY 6, 2025

“SK”