



2025:DHC:9022



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:10.10.2025

+ **CRL.REV.P. 311/2023**

PRIYA NARAYANAN & ORS. Petitioners

versus

**STATE GOVT OF NCT OF DELHI
& ANR** Respondents

+ **CRL.REV.P. 322/2023 & CRL.M.A. 8109/2023**

DELHI PUBLIC SCHOOL DWARKA Petitioner

versus

STATE Respondent

Advocates who appeared in this case:

For the Petitioners : Mr. Arvind Kumar Gupta, Ms. Sakshi Mendiratta and Mr. Ishan Parashar, Advs.

For the Respondent : Mr. Sunil Kumar Gautam, APP for the State with SI Puja Saini, PS Dwarka North

**CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN**

JUDGMENT

1. The present petitions have been filed by the petitioners under



Sections 397/401 read with Section 482 of the Code of Criminal Procedure, 1973 (**'CrPC'**) challenging the order dated 15.03.2023 (hereafter **'impugned order'**) passed by the learned Additional Sessions Judge (**'ASJ'**), Dwarka Courts, New Delhi in Sessions Case No. 486/2023.

2. The learned ASJ by the impugned order framed charges against the petitioners in CRL.REV. P. 311/2023 for the offence under Section 21 of the Protection of Children from Sexual Offences Act, 2012 (**'POCSO Act'**). The learned ASJ by the impugned order also issued notice to the petitioner school in CRL.REV. P. 322/2023 to ascertain as to how did they gain possession of the statement of the victim under Section 161 of the CrPC.

3. The brief facts are that on 25.04.2022, the complainant/mother of the prosecutrix had picked her daughters up from school, whereafter, she saw that her younger daughter was upset. After asking her as to what had happened, she told the complainant that today photographs for ID cards were being taken in school.

4. It is alleged that while the prosecutrix was getting her photograph clicked, the photographer's helper had touched the prosecutrix inappropriately and allegedly tried to hold the prosecutrix in his arms.

5. It is alleged that the prosecutrix freed herself with great difficulty and immediately informed about the alleged incident to the teacher who was present in the classroom. She advised the prosecutrix to meet the school counsellor regarding the same.



6. It is alleged that the prosecutrix thereafter met the school counsellor who asked the prosecutrix 4-5 times as to what had happened, whereafter, the counsellor had taken her to the Vice-Principal office.

7. It is alleged that after learning about the alleged incident the complainant spoke to the school authorities who said that they have done an internal enquiry at their level and found nothing incriminating.

8. Pursuant to a complaint given by the complainant the police registered FIR No. 261/2022 for the offences under Section 354/354(A) of the Indian Penal Code, 1860 ('**IPC**') and under Section 10 of the POCSO Act.

9. The police after completion of investigation on 22.06.2022 filed chargesheet against the accused for the offences under Sections 354/354(A) of the IPC and under Section 10 of the POCSO Act.

10. During the course of trial, the complainant filed an application under Section 173(8) of the CrPC to conduct enquiry against the petitioners in CRL.REV. P. 311/2023. Pursuant to which further investigation was carried out by the police and a supplementary chargesheet was filed on 28.11.2022.

11. As noted above, the learned ASJ by the impugned order framed charges against the petitioners in CRL.REV. P. 311/2023 for the offence under Section 21 of the POCSO Act. The learned ASJ noted that the petitioners were more worried about the reputation of the school and thereby failed to inform about the alleged incident to the



police.

12. The learned ASJ by the impugned order also issued notice to the principal of the petitioner school in CRL.REV. P. 322/2023 in order to ascertain as to how the petitioner school got access to the statement of the prosecutrix under Section 161 of the CrPC. The learned ASJ noted that that proceedings under POCSO Act are meant to be confidential and are aimed at protecting the identity of the child victim.

13. The learned counsel for the petitioners submitted that the learned ASJ failed to appreciate the fact that there is no time period mentioned under Section 21 of the POCSO Act to report an incident of child abuse. He submits that that learned ASJ failed to appreciate the fact that the delay in reporting the alleged incident was due to the in-house enquiry done by the petitioners. He submitted that the inquiry was conducted right after receipt of information and the same was done in accordance with the Guidelines for Prevention of Child Abuse, 2013, which have been framed by Delhi Commission for Protection of Child Rights (**'DCPCR'**).

14. He submitted that the learned ASJ erred in observing that the petitioners in CRL.REV. P. 311/2023 were more worried about the reputation of the school and did not inform about the alleged incident to the police, instead the petitioners conducted an in-house enquiry causing mental harassment to the prosecutrix.

15. He submitted that the learned ASJ erred by framing charges against the petitioners in CRL.REV. P. 311/2023 for the offence under Section 21 of the POCSO Act. He submits that there is no material



evidence on record against them for which they could be charged for the alleged offence.

16. He submitted that the learned ASJ failed to appreciate the fact that the chargesheet had already been filed on 22.06.2022 and the copies of the statement of the prosecutrix were made accessible to the accused.

17. He submitted that the learned ASJ failed to appreciate the fact that the Investigating Officer in the present case did not allege that the petitioner school in CRL.REV. P. 322/2023 colluded with the accused or that the petitioner school tried to illegally gain access to the statements of the prosecutrix.

18. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposed the arguments as raised by the learned counsel for the petitioners. He consequently prayed that the present petition be dismissed.

Analysis

19. The scope of interference by High Courts while exercising revisional jurisdiction in a challenge to order framing charge/discharge is well settled. The power ought to be exercised sparingly, in the interest of justice. It is not open to the Court to misconstrue the revisional proceedings as an appeal and reappreciate the evidence unless any glaring perversity is brought to its notice.

20. Since the petitioners have assailed the impugned order whereby, the learned ASJ has framed charges under Section 21 of the POCSO Act against them, it will be apposite to succinctly discuss the statutory



law with respect to framing of charge and discharge as provided under Section 227 and 228 of the CrPC. The same is set out below:

“227. Discharge If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of Charge

(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, 1 [or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of subsection (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.”

21. The Hon’ble Apex Court in ***Union of India v. Prafulla Kumar Samal : (1979) 3 SCC 4***, dealt with the scope of enquiry a judge is required to make with regard to the question of framing of charges.

Inter alia, the following principles were laid down by the Court:

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:



(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

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(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. **By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.**

(emphasis supplied)

22. The Hon'ble Apex Court, in the case of **Sajjan Kumar v. CBI : (2010) 9 SCC 368**, has culled out the following principles in respect of the scope of Sections 227 and 228 of the CrPC while observing that a prima facie case would depend on the facts and circumstances of each case. The relevant paragraphs read as under:

"21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at



this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

(emphasis supplied)

23. In ***State of Gujarat v. Dilipsinh Kishorsinh Rao : (2023) 17 SCC 688***, the Hon’ble Apex Court has discussed the parameters that would be appropriate to keep in mind at the stage of framing of charge/discharge, as under:

“7. It is trite law that application of judicial mind being necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused when an application for discharge is filed. At that



stage, the trial judge has to merely examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on basis of charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced in which prima facie it reveals that there are suspicious circumstances against the accused, so as to frame a charge would suffice and such material would be taken into account for the purposes of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged, but if the court is of the opinion, after such consideration of the material there are grounds for presuming that accused has committed the offence which is triable, then necessarily charge has to be framed.

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12. The primary consideration at the stage of framing of charge is the test of existence of a prima-facie case, and at this stage, the probative value of materials on record need not be gone into. This Court by referring to its earlier decisions in the State of Maharashtra v. Som Nath Thapa, (1996) 4 SCC 659 and the State of MP v. Mohan Lal Soni, (2000) 6 SCC 338 has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima-facie case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.”

24. The Court at the stage of framing of charge is to evaluate the material only for the purpose of finding out if the facts constitute the alleged offence, given the ingredients of the offence. Thus, while framing of charges, the Court ought to look at the limited aspect of whether, given the material placed before it, there is grave suspicion against the accused which is not properly explained. Though, for the purpose of conviction, the same must be proved beyond reasonable



doubt.

25. It is the case of the petitioners that the learned ASJ has failed to appreciate that there is no time period mentioned under Section 21 of the POCSO Act to report the alleged offence. It is contended that the delay was due to an in-house enquiry being conducted by the petitioners in CRL.REV. P. 311/2023.

26. The learned ASJ by the impugned order has framed charges against the petitioners in CRL.REV. P. 311/2023 for the offence under Section 21 of the POCSO Act, which deals with the punishment for the offence under Section 19 of the POCSO Act. Section 19 and Section 21 of the POCSO Act are reproduced hereunder:

“19. Reporting of offences.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) any person (including the child), who has apprehension that an offence under this Act is likely to be committed or has knowledge that such an offence has been committed, he shall provide such information to,—

(a) the Special Juvenile Police Unit; or
(b) the local police.

(2) Every report given under sub-section (1) shall be—

(a) ascribed an entry number and recorded in writing;
(b) be read over to the informant;

(c) shall be entered in a book to be kept by the Police Unit.

(3) Where the report under sub-section (1) is given by a child, the same shall be recorded under sub-section (2) in a simple language so that the child understands contents being recorded.

(4) In case contents are being recorded in the language not understood by the child or wherever it is deemed necessary, a translator or an interpreter, having such qualifications, experience and on payment of such fees as may be prescribed, shall be provided to the child if he fails to understand the same.

(5) Where the Special Juvenile Police Unit or local police is satisfied that the child against whom an offence has been committed is in need of care and protection, then, it shall, after recording the reasons in writing, make immediate arrangement to



give him such care and protection including admitting the child into shelter home or to the nearest hospital within twenty-four hours of the report, as may be prescribed.

(6) The Special Juvenile Police Unit or local police shall, without unnecessary delay but within a period of twenty-four hours, report the matter to the Child Welfare Committee and the Special Court or where no Special Court has been designated, to the Court of Session, including need of the child for care and protection and steps taken in this regard.

(7) No person shall incur any liability, whether civil or criminal, for giving the information in good faith for the purpose of sub-section (1).

21. Punishment for failure to report or record a case.—*(1) Any person, who fails to report the commission of an offence under sub-section (1) of section 19 or section 20 or who fails to record such offence under sub-section (2) of section 19 shall be punished with imprisonment of either description which may extend to six months or with fine or with both.*

(2) Any person, being in-charge of any company or an institution (by whatever name called) who fails to report the commission of an offence under sub-section (1) of section 19 in respect of a subordinate under his control, shall be punished with imprisonment for a term which may extend to one year and with fine.

(3) The provisions of sub-section (1) shall not apply to a child under this Act.

27. From a bare perusal of the aforesaid provisions, it can be seen that the provisions provide for punishment in cases where such incidents are not reported, however, there is no time period mentioned in the said provisions for reporting of such incidents.

28. In the present case, the petitioners in CRL.REV. P. 311/2023 gained knowledge about the alleged incident at 11:40 a.m., whereafter, they conducted an in-house enquiry into the alleged incident, wherein, nothing incriminating was found and after concluding the same the petitioners in CRL.REV. P. 311/2023 admittedly informed the



complainant regarding the alleged incident at 1:15 p.m.

29. After conducting further investigation, in the supplementary chargesheet, the police found nothing incriminating against the petitioners in CRL.REV. P. 311/2023 and noted that there was a delay on part of the petitioners in CRL.REV. P. 311/2023 to report the alleged incident on account of the in-house enquiry being conducted by them.

30. The Coordinate Bench of this Court in the case of ***Jasvinder Kaur and Another v. State and Another*** : 2024 SCC OnLine Del 3337 has categorically held that a person cannot be charged for an offence under Section 21 of the POCSO Act merely on account of delay in reporting the incident as the aforesaid provision provides the punishment for *non-compliance* of the provision of Section 19 of the POCSOI Act, instead of belated compliance.

31. It is important to caution that merely because no specific time is prescribed for reporting an incident, the same cannot be construed as a liberty to withhold the information for an undue period of time despite being aware of the offence. In the opinion of this Court, such offences require prompt investigation due to the sensitivity of the matter as there is a high peril of crucial evidence being lost due to delay in reporting of the incident.

32. However, in the peculiar facts of the present case, as noted above, the petitioners in CRL.REV. P. 311/2023 were informed regarding the alleged incident at 11:40 a.m. and after concluding the in-house enquiry timely, they duly informed the complainant



regarding the alleged incident at 1:15 p.m. itself. Undisputably, pursuant to the same, a complaint was made by the complainant at 2:58 pm. It is pertinent to note that even the complainant took over one and a half hours to register the complaint. As the FIR was registered within a few hours of the incident, it cannot be inferred from the facts of the case that any of the school authorities had any deliberate intention to conceal the allegations as is further evident by their informing the complainant. Merely because the incident was not reported *immediately* to the police authorities, the same cannot be construed as a failure on part of the petitioners in CRL.REV. P. 311/2023 to report the incident.

33. Furthermore, while the allegations are serious in nature, the petitioners in CRL.REV. P. 311/2023 cannot be faulted for conducting a preliminary in-house inquiry into the alleged incident, especially since the same was conducted expeditiously and wrapped swiftly.

34. It is pointed out that the inquiry was done in accordance with the Guidelines for Prevention of Child Abuse, 2013. The said guidelines provide for constitution of Child Abuse Monitoring Committee within the institution and for an inquiry to be initiated within 24 hours of the incident being reported. The guidelines also provide for a report to be given to the local police at the earliest within forty-eight hours. They further provide that the institution shall intimate the emergency contact person within twenty-four hours.

35. In the present case, it is apparent that the petitioners in CRL.REV. P. 311/2023 immediately constituted a Child Abuse



Monitoring Committee after gaining knowledge of the alleged incident and conducted an in-house enquiry to ascertain the veracity of the alleged incident, and they promptly informed the complainant as well. Although it seems that no such report was given to the police, Section 21 of the POCSO Act cannot be attracted against the petitioners due to the same and no foul play can be ascribed to the said petitioners at this stage merely because they conducted an enquiry which caused delay of a couple hours.

36. The conduct of the petitioner does not raise grave suspicion which is the condition for framing of charge for the offence.

37. In view of the aforesaid discussion, this Court is of the opinion that the learned ASJ erred by framing charges against the petitioners in CRL.REV. P. 311/2023 for the offence under Section 21 of the POCSO Act.

38. Insofar as the notice issued to the principal of the petitioner school is concerned, it is undisputed that the police after conducting investigation had filed chargesheet on 23.06.2022 before the learned ASJ. The said aspect has not been taken into consideration by the learned ASJ.

39. After the police have concluded their investigation and have filed chargesheet before the concerned court, the documents as well as the statements of the witnesses annexed with the chargesheet are made accessible to the accused. Once the accused had a copy of the chargesheet as well as the annexed documents, including the statement of the prosecutrix under Section 161 of the CrPC, the possibility of the



same being provided by the accused to the petitioner school cannot be ruled out. While this Court is cognizant that the confidentiality of the victim is of utmost importance, the same cannot be said to have been breached by mere reference to the victim's statements in Court. No criminality can be ascribed to the petitioner school at this stage for the same.

Conclusion

40. In light of the aforesaid discussion, I find merit in the present petitions.

41. The impugned order dated 15.03.2023 is set aside. The present petitions are allowed. Pending Application(s), if any, also stand disposed of.

42. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

OCTOBER 10, 2025

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