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

+ **CRL.M.C. 7869/2025**

P.K. SHRIVASTAVA AND ORSPetitioners

Through: **Mr. Mukesh Kher, Advocate.**

versus

STATE OF NCT OF DELHI AND ANRRespondents

Through: **Mr. Shoaib Haider, APP for the State.**

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **10.11.2025**

CRL.M.A. 32961/2025 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

CRL.M.C. 7869/2025

3. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*), has been filed on behalf of the Petitioners, to challenge the Summoning Order dated 29.04.2024 of the learned Mahila Court No. 2, Patiala House Courts in Complaint Case No. 45401/2012 (*FIR No. 359/2012 under section 323/342/354B/34 of the Indian Penal Code, 1860*), which has been upheld by the learned ASJ, Patiala House Courts, New Delhi *vide* Order dated 21.07.2025.

4. On advance Notice, learned APP has appeared and accepted the Notice.

5. Status Report be filed within four weeks with copy to the opposite counsel.

6. On taking steps, Notice of the Petition be issued to the Respondent No. 2, through Investigating Officer, including through ordinary post and



electronic mode, returnable on 27.01.2026.

7. Be listed on 27.01.2026.

CRL.M.A. 32960/2025 (stay)

8. Application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*), has been filed on behalf of the Petitioners, for ad-interim stay of the Summoning Order dated 29.04.2024, passed by the learned JMFC, Mahila Court No. 2, Patiala House Courts, New Delhi in FIR No. 359/2012 registered at Police Station Vasant Vihar, New Delhi and the proceedings emanating therefrom.

9. As the Case is now fixed before the learned Trial Court for 21.11.2025. It is submitted that the Petitioner has been summoned *vide* Order dated 29.04.2024. The bare perusal of the Complaint of the Respondent No. 2, on which FIR No. 359/2012 was registered at Police Station Vasant Vihar, after recording of four interested/ex-employees/associates of the Respondent No. 2 and the husband whereby for taking revenge and giving criminal colour to the pending civil litigations, the above false Complaint was filed by the Respondent No. 2 and also to put pressure on the Petitioners and to extract money from them by filing a false, unbelievable and concocted Complaint with allegations of gang rape in School, during the parent teachers meeting on 11.08.2012. The Summons issued by the learned JMFC *vide* Order dated 29.04.2024, is bad in law and not tenable on the facts of this Case. It is further submitted that the CCTV footage and independent witnesses to the incident, who had deposed against the Complainant, has not been considered, which proves the malicious intentions of the Respondent No. 2, for achieving the goal of extraction of money. The independent witnesses and police investigation proves beyond



reasonable doubt that the Petitioner No. 2, namely, Mr. Mukesh Kher and the Petitioner No. 4, namely, Dr. R.K. Rai, were not in the School at Vasant Vihar but were in Gurgaon, Haryana and Pusa Institute, New Delhi. The totally malicious Complaint dated 11.08.2012, has been filed by the Complainant, in which she got herself examined as CW-1 in 2019 and after four years, two more witnesses who are ex-employees, were examined in the year 2023, which clearly shows that there is no urgency for the Complainant as she has filed the Complaint, to achieve her goal of settling civil dispute of her husband/brother and nothing else by misusing the criminal law. Hence, a prayer is made that the proceedings before the learned Trial Court may be stayed.

Submissions heard and the record perused.

10. As per the learned Prosecutor, Closure Report had been filed in FIR No. 359/2012 against which, the Protest Petition was filed by the Complainant. After recording the evidence of the Complainant and her witnesses, the Petitioners have been summoned by the learned JMFC *vide* Order dated 29.04.2024, which has been upheld by the learned ASJ *vide* Order dated 21.07.2025.

11. Considering the nature of allegations and the concurrent Orders of two Courts, no Case is made out for grant of ad-interim stay.

12. On taking steps, Notice of the Application be issued to the Respondent No. 2, through Investigating Officer, including through ordinary post and electronic mode, returnable on 27.01.2026.

13. Be listed on 27.01.2026.

NEENA BANSAL KRISHNA, J

NOVEMBER 10, 2025/RS