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

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Judgment delivered on: 22.11.2018

+ CRL.REV.P. 970/2018

STATE

..... Petitioner

versus

RAMA DHALL

..... Respondent

Advocates who appeared in this case:

For the Petitioner :Ms.Kusum Dhalla, APP with Inspector Dhiraj Singh,
P.S.Ashok Vihar.

For the Respondent : None.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

22.11.2018

SANJEEV SACHDEVA, J. (ORAL)

Crl.M.A.35658/2018 (exemption)

Exemption is allowed subject to all just exceptions.

CRL.REV.P. 970/2018

1. State has filed the subject revision petition impugning the order dated 24.08.2018 whereby the Trial Court has discharged accused Rama Dhall of the offences under Sections 75/79 Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the JJ Act) and has opined that because of the maltreatment, Section 323 of the IPC would be attracted and accordingly she has to face trial for Section 323 IPC and not Section 75/59 of the JJ Act.

2. The allegations against the respondent is that she had employed and maltreated the victim. Since there were no documents available of proof of age, as stipulated by the JJ Act, the age of the victim was ascertained through medical examination.

3. The board of Babu Jagjivan Ram Memorial Hospital has opined the age of the victim to be between 18 to 20 years.

4. The Trial Court considering the age determined as 18 to 20 years opined that the victim was not a child as defined under the JJ Act and as such Section 75/79 would not be attracted.

5. On perusal of the record, I am of the view that there is no infirmity in the view taken by the Trial Court. The board after medical examination has opined the age to be 18 to 20 years. Keeping in view the fact that benefit of doubt has to go to the accused, the age would have to be taken to be the higher of the range as determined by the medical examination while, further keeping in view the margin of error of 1 to 2 years. Clearly the victim was not a minor when the alleged offence is stated to have happened.

6. In view of the above, the petition has no merit. The same is accordingly dismissed.

7. Order *Dasti* under the signature of the Court Master.

SANJEEV SACHDEVA, J

NOVEMBER 22, 2018/rk