

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

Date of Decision: January 22, 2015

+ CRL.M.C. 3774/2014

SALMAN & ORS.

..... Petitioners

Through: Mr. Anil Kumar Singh, Advocate

versus

THE STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for respondent
No.1-State with SI Yogesh Kumar
Respondent No.2 in person

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Quashing of FIR No. 183/2011, under Sections 363 of the IPC, registered at police station Bhajanpura, Delhi is sought by petitioner No.1 on the ground that he had not kidnapped petitioner No.2.

Learned Additional Public Prosecutor for respondent-State submits that petitioner No.1 is the accused and petitioner No.2 is the prosecutrix and respondent No.2, who is father of petitioner No.2/prosecutrix, is the complainant/ first-informant of FIR in question and they are present in the Court and they have been identified to be so by SI Yogesh Kumar, Investigating Officer of this case.

Petitioner No.2/prosecutrix submits that she had voluntarily accompanied petitioner No.1-accused and had married him in the year

2011 and since then, she is happily residing with petitioner No.1-husband. Petitioner No.2 affirms contents of her affidavit of 7th August, 2014 in support of this petition.

Respondent No.2/first-informant submits that there was no kidnapping of petitioner No.2 by petitioner No.1 and he has placed on record his affidavit of 22nd January, 2015 to submit that at the time of incident in question, petitioner No.2 was more than 16 years of age and she had of her own sweet will married petitioner No.1-accused and is happily residing with him now. He submits that to restore cordiality between the parties, proceedings arising out of FIR in question be brought to an end.

Learned Additional Public Prosecutor for respondent-State submits that charge sheet in this case has been filed only for the offence under Section 363 of the IPC.

In ‘*Gian Singh Vs. State of Punjab*’ (2012) 10 SCC 303 Apex Court has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

“61. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings.”

A Full-Bench of this Court in *Court on Its Own Motion (Lajja*

Devi) & Ors. v. State 2012 (3) JCC 148, has authoritatively held as under:-

"If the girl is more than 16 years, and the girl makes a statement that she went with her consent and the statement and consent is without any force, coercion or undue influence, the statement could be accepted and Court will be within its power to quash the proceedings under Section 363 or 376 IPC. Here again no straight jacket formula can be applied. The Court has to be cautious, for the girl has right to get the marriage nullified under Section 3 of the PCM Act. Attending circumstances including the maturity and understanding of the girl, social background of girl, age of the girl and boy etc. have to be taken into consideration."

Applying the dictum of afore-noted decisions to the facts of this case, I find that continuance of proceedings arising out of the FIR in question would be an exercise in futility in view of the fact that petitioner No.2-prosecutrix is happily residing with petitioner No.1-husband.

Accordingly, this petition is allowed and FIR No. 183/2011, under Sections 363 of the IPC, registered at police station Bhajanpura, Delhi and proceedings emanating therefrom are quashed to restore cordiality amongst the parties.

This petition is accordingly disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 22, 2015

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