

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

Date of Decision: January 13, 2015

+ **CRL.M.C. 4351/2014**

ANIL KUMAR Petitioner

Through: Mr. N. Naushad, Advocate

versus

THE STATE & ANR Respondents

Through: Mr. Navin Sharma, Additional
Public Prosecutor for respondent-
State with SI Rajeev
Respondent No.2 in person

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Quashing of FIR No.148/2014, under Section 363 of *IPC* registered at police station Jaitpur, Delhi is sought on the basis of *Memorandum of Understanding of 20th September, 2014* and on the ground that the misunderstanding which led to registration of the FIR now stands cleared between the parties.

Upon notice, respondent No.2 has appeared in person.

Mr. Navin Sharma, learned Additional Public Prosecutor for respondent-State accepts notice and submits that respondent No.2, present in the Court, is complainant/first-informant of the FIR in question and he has been identified to be so by SI Rajeev on the basis of identity proof produced by him.

Respondent No.2, present in the Court, submits that he had lodged this FIR out of a misunderstanding, which now stands cleared between the parties and the *Memorandum of Understanding* has been arrived at and his daughter, who was aged 17 years and 7 months at the time of this incident, had voluntarily gone with petitioner and she has married him.

Prosecutrix, present in the Court, submits that she was on the verge of attaining the age of majority at the time of this incident and she had voluntarily gone with petitioner-accused and has married with him and now living happily with petitioner-accused.

Respondent No.2 and the prosecutrix submit that since the dispute between the parties has been amicably resolved vide aforesaid *Memorandum of Understanding* and that now prosecutrix has married with petitioner-accused, therefore, to restore the cordiality amongst the parties, the proceedings arising out of the FIR in question be brought to an end.

Learned Additional Public Prosecutor for respondent-State submits that the investigation of this case is almost complete and in the statement under Section 164 of Cr.P.C. prosecutrix does not incriminate the petitioner.

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."

Further, the 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."

In the peculiar facts and circumstances of this case and in view of the stand taken by complainant/first-informant of the FIR in question and the statement of the prosecutrix under Section 164 of Cr.P.C. and the fact that prosecutrix and petitioner-accused has now married and living together happily, I find that continuance of proceedings arising out of the FIR in question would be an exercise in futility as the misunderstanding, which led to registration of the FIR, now stands cleared between the parties.

Accordingly, this petition is allowed and FIR No.148/2014, under Section 363 of *IPC* registered at police station Jaitpur, Delhi and the proceedings emanating therefrom are quashed *qua* petitioners.

This petition is accordingly disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 13, 2015

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