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

Date of Decision: March 09, 2015

+ CRL.M.C. 5931/2014

NARESH & ANR.

..... Petitioners

Through: Mr. P.V.Raghunandan, Advocate

versus

GOVT. OF NCT OF DEHI & ANR.

..... Respondents

Through: Mr. Navin Sharma, Additional
Public Prosecutor for respondent
No.1-State with WSI Prabha
Respondent No.2-in-person

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

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(ORAL)

Quashing of FIR No. 28/2013, under Sections 363 of the IPC, registered at police station Prasad Nagar, Delhi is sought while relying upon statement of petitioner No.2, who is the prosecutrix of this FIR, recorded under Section 164 of the Cr.P.C. before the trial court as also affidavit of respondent No.3, who is mother of prosecutrix/ petitioner No.2 and is the first-informant of FIR in question.

Learned Additional Public Prosecutor for respondent-State submits that petitioner No.1 is the accused whereas petitioner No.2 is the prosecutrix and respondent No.2 present in Court is the first informant of FIR in question. They have been identified to be so by WSI Prabha, Investigating Officer of this case.

Learned Additional Public Prosecutor for respondent-State further

submits that petitioner No.2 has not supported the prosecution case in her statement under Section 164 of the Cr.P.C. and that investigation in this case is complete. Learned Additional Public Prosecutor for respondent-State has placed on record status report and he submits that at the time of recording of the FIR in question, prosecutrix was 17 years and 2 months old and that offence under Section 363 of IPC only, is made out against petitioner No.1-accused.

Petitioner No.2/prosecutrix submits that she had voluntarily accompanied petitioner No.1-accused and had married him and that she is happily residing with petitioner No.1-husband and to restore cordiality amongst the parties, proceedings arising out of FIR in question be brought to an end. Respondent No.2, present in Court joins petitioners to seek quashing of FIR in question.

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."

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.”

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. 28/2013, under Sections 363 of the IPC, registered at police station Prasad Nagar, Delhi and proceedings emanating therefrom are quashed qua petitioner No.1 to restore cordiality amongst the parties.

This petition is accordingly disposed of.

(SUNIL GAUR)
JUDGE

MARCH 09, 2015

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