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

Date of Decision: May 29, 2015

+ CRL.M.C. 2448/2015

PANKAJ KUMAR & ANR. Petitioners

Through: Mr. Ankit Khatri & Mr. Sushant
Yogi, Advocates

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR. Respondents

Through: Ms. Nishi Jain, Additional Public
Prosecutor for respondent-State
with SI Arun Kumar
Respondent No.2 in person

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Quashing of FIR No. 32/2011, under Section 363 of the IPC, registered at police station Patel Nagar, Delhi is sought while relying upon affidavit of petitioner No.2 in support of this petition. Respondent No.2, who is father of petitioner No.2, is the first-informant of FIR in question.

Learned counsel for petitioners draws attention of this Court to the copy of Date of Birth Certificate of petitioner No.2 (*Annexure P-4*) to show that at the time of incident in question, petitioner No.2- prosecutrix was 18 years of age.

Learned Additional Public Prosecutor for respondent-State submits that petitioner No.1 is the accused and petitioner No.2 is the prosecutrix and they have been identified to be so by SI Arun Kumar, Investigating Officer of this case. Learned Additional Public Prosecutor for respondent-State on instructions submits that at the time of recording of statement of the prosecutrix under Section 164 of the Cr.P.C., she was 18 years of age.

Petitioner No.2/prosecutrix submits that she had voluntarily accompanied petitioner No.1-accused, as she was in love with him and had married him and out of this wedlock, a son was born, who is now aged three years. Petitioner No.2/prosecutrix submits 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, who is the father of petitioner No.2-prosecutrix and complainant of FIR in question, submits that since his daughter is happily living with petitioner No.1-accused, he has no objection to the quashing of FIR in question. Respondent No.2 affirms the contents of his affidavit of 27th May, 2015 filed in support of this petition.

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 and a child has been born out of this wedlock.

Accordingly, this petition is allowed and FIR No. 32/2011, under Section 363 of the IPC, registered at police station Patel Nagar, Delhi and proceedings emanating therefrom are quashed to restore cordiality amongst the parties.

This petition is accordingly disposed of.

(SUNIL GAUR)
JUDGE

MAY 29, 2015

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