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

Date of Decision: July 21, 2015

+ **CRL.M.C. 2881/2015 & Crl.M.A.10275/2015**

SUNIL SINGH Petitioner

Through: Ms. Rashmi, Advocate

versus

STATE (NCT OF DELHI) & ORSRespondents

Through: Ms. Nishi Jain, Additional Public
Prosecutor for respondent-State
with ASI Jaiveer Singh
Mr. Dhan Mohan and Ms. Tanu
Mishra, Advocates with
respondents No.2 and 3 in person

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

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(ORAL)

Quashing of FIR No.89/2013, under Section 363 of the IPC, registered at police station Gulabi Bagh, Delhi is sought on the basis of affidavits of respondents No.2 and 3.

Learned counsel for petitioner submits that the statement of respondent No.3, who is the prosecutrix, recorded under Section 164 of the Cr.P.C. before the trial court does not incriminate petitioner.

Notice.

Ms. Nishi Jain, learned Additional Public Prosecutor, accepts notice for respondent-State and Mr. Dhan Mohan, Advocate, accepts notice for respondents No.2 and 3.

Learned Additional Public Prosecutor for respondent-State submits

that respondent No.2, who is the father of the prosecutrix, has been identified to be complainant/first-informant of the FIR in question whereas respondent No.3 has been identified to be the prosecutrix, by their counsel as well as by ASI Jaiveer Singh on the basis of the identity proof produced by them. Learned Additional Public Prosecutor for respondent-State further submits that the prosecutrix was 17 years old at the time of the incident in question and the statement of the prosecutrix recorded under Section 164 of Cr.P.C. does not incriminate petitioner.

Respondents No.2 and 3, present in the Court, submit that respondent No.3 had voluntarily accompanied petitioner-accused and had married him on 27th November, 2014 and since then she is happily residing with petitioner and so, to restore cordiality amongst the parties, proceedings arising out of FIR in question be brought to an end.

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 since the statement of the respondent No.3-prosecutrix under Section 164 of Cr.P.C. does not incriminate petitioner-accused and that respondent No.3-prosecutrix is happily residing with petitioner-accused, therefore, to restore cordiality amongst the parties, the proceedings arising out of the FIR in question deserve to be put to an end.

Accordingly, this petition is allowed and FIR No. 89/2013, under Section 363 of the IPC, registered at police station Gulabi Bagh, Delhi and proceedings emanating therefrom are quashed qua petitioner.

This petition and application are accordingly disposed of.

(SUNIL GAUR)
JUDGE

JULY 21, 2015

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