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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: August 24, 2015

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CRL.M.C. 3429/2015 & Crl.M.As.12240-41/2015

SARWAN

..... Petitioner

Through: Ms. Puja Dwan Seth, Advocate

versus

STATE (NCT OF DELHI) & ANR

.....Respondents

Through: Mr.P.L. Sharma, Additional Public
Prosecutor for respondent-State
with ASI Rajendra Singh
Respondent No.2 in person
alongwith prosecutrix

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Quashing of FIR No.213/2012 under Sections 363/366 of *IPC*, registered at Police Station Kotwali, Delhi is sought on the basis of affidavits of respondent No.2 and that of prosecutrix.

Learned counsel for petitioner submits that the statement of prosecutrix recorded under Section 164 of the Cr.P.C. does not incriminate petitioner and that prosecutrix had voluntarily gone with petitioner and had married him and out of this wedlock, a child has also born and now, they are living happily.

Notice.

Mr. P. L. Sharma, learned Additional Public Prosecutor, accepts

notice on behalf of respondent-State and submits that prosecutrix and respondent No.2, who is father of prosecutrix, has been identified to be so by ASI Rajendra Singh on the basis of the identity proof produced by them. Learned Additional Public Prosecutor for respondent-State further submits that prosecutrix was 16 years, 2 months and 13 days' old at the time of the incident in question and the statement of prosecutrix recorded under Section 164 of Cr.P.C. does not incriminate petitioner. It is also submitted that though the investigation of this case is complete and the charge-sheet filed, but the trial of this FIR case has not yet begun.

Respondent No.2 and the prosecutrix present in the Court, submit that prosecutrix had voluntarily accompanied petitioner-accused and had willingly married him in September, 2012 and since then, she is happily residing with petitioner and a child has been born out of their wedlock and now, she is of major age 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 statement of the prosecutrix recorded under Section 164 of Cr.P.C. does not incriminate petitioner-accused and that prosecutrix had willingly married petitioner and she is happily residing with petitioner-accused since September, 2012, and a child has been also born out of this wedlock and so, 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.213/2012 under Sections 363/366 of IPC, registered at Police Station Kotwali, Delhi and proceedings emanating therefrom are quashed qua petitioner.

This petition and the applications are accordingly disposed of.

(SUNIL GAUR)
JUDGE

AUGUST 24, 2015

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