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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 1903/2015**

Date of decision: 02.09.2015

SAURABH & ANR

..... Petitioner

Through: Mr.Lalit Kumar and Mr.Satendra Singh,
Advocates.

versus

STATE (THROUGH GOVT OF NCT OF DELHI) & ANR

..... Respondent

Through: Ms.Nandita Rao, ASC for the State with
Ms.Srilina Roy, Advocate.
ASI Ram Kumar, PS O.D.R.S.

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ASHUTOSH KUMAR, J. (ORAL)

CrI.M.A.12759/2015

Exemption granted subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 1903/2015

1. Saurabh and Roshni have preferred this writ petition seeking quashing of the FIR No.429/2015 lodged by Narinder Kumar Singh, father of Roshni at Old Delhi Police Station for offence under Section 363 of the IPC.
2. The petitioners are present. The parents of petitioner No.2

(Roshni) are also present in the Court.

3. This Court interacted with petitioners, especially petitioner No.2, in presence of the respective counsels for the parties and Ms.Nandita Rao, Additional Standing Counsel.

4. Roshni has stated that she did not know Saurabh from before and only on a telephone call, she went to meet him. She has also stated that initially she came in touch with elder brother of Saurabh and later out of confusion and pressure exerted by the elder brother of Saurabh, she married Saurabh before the Registrar of Marriages. Thereafter, the petitioners started living in Bullandshahar.

5. Roshni has categorically averred that on no occasion was she taken to the village home of Saurabh. She has no idea as to what is the vocation of Saurabh.

6. Saurabh, on the other hand, has admitted the fact that he has no idea about the family of Roshni. There was an accidental phone call where Roshni had an occasion to talk to him. Thereafter, a proposal of marriage was given to Roshni, to which she was agreeable and they married before the Registrar of Marriages. However, Saurabh has made it clear that he did not exert any pressure on Roshni, rather he made her understand that if she desired, she could go to her parents and he was, in that event, willing to end the relationship.

7. On interacting with Roshni, I could not ascertain her age. She appeared to be in state of consternation and confusion. Initially, she communicated that she would not like to go with her parents as it would give an impression that her conduct is being dictated by her parents who are also present in the Court-room. Later, she expressed

her desire to go with her aunt who had come to the Court but was not present in the court room. After some time, Roshni opened up and narrated the entire story as to how she was put in a trap.

8. When a specific question was put to her about her age, she did not have an answer. She could not even state the year of her birth. She has only spoken about her two other younger siblings.

9. The parents of Roshni claim that she is not of marriageable age and less than 18 years of age. The statements of the parents of Roshni cannot be accepted on its face value for the reason that they appeared to be very upset with the developments.

10. The father of petitioner works with BSF. However, his conduct reflects that he has not been a responsible father. For the time that I interacted with the parents of Roshni, the father kept on crying and did not speak anything logical.

11. Be that as it may, the record reveals that petitioners, after their marriage and sensing trouble, preferred a writ petition before the Allahabad High Court vide Writ – C No. 41582 of 2015 seeking protection as well as direction to the Delhi Police not to unnecessarily trouble and harass them or disturb their peaceful matrimonial lives.

12. Such a protection was granted by the Allahabad High Court but with a caveat that since there was no proof of the marriageable age of both the parties to the marriage, if any one of the parties felt aggrieved by the order, they would have the liberty to have the order recalled.

13. The petitioner No.1, apprehending arrest, preferred an application for anticipatory bail before the High Court of Delhi vide Bail Application No.1757/2015.

14. A bench of this Court, finding the offence for which the petitioner was charged to be bailable, did not entertain the application for anticipatory bail but directed him to appear before the Investigating Officer of the case on 28.8.2015 along with one surety and the Investigating Officer was in turn directed that in that event, the petitioner be admitted to bail subject to his furnishing surety to his satisfaction.

15. Pursuant to such an order passed by this Court, petitioner No.1 filed his bail bonds and offered surety before the Investigating Officer of this case.

16. Having said so, this Court is not inclined to pass any order with respect to the two prayers made in this writ petition namely quashing of the FIR and in the meantime grant protection to the petitioners, who claim to be legally married.

17. This Court refrains from making any further analysis as there is a certificate of Registrar of Marriage on record. It is a matter of common knowledge that the Registrar, before whom such proceedings are concluded, does not make any depth enquiry about the age of the parties.

18. In any view of the matter, the issue with respect to the marriage being void or voidable is left open and the parties may get the same adjudicated.

19. The petitioner No.2 i.e. Roshni is directed to go along with her parents, who are present in the Court. The parents of Roshni are advised not to trouble her on any account and facilitate her joining the investigation in FIR No.429/2015.

20. The Investigating Officer of the case would investigate the case in right earnest but would also take into account the fact that the petitioner No.1 is a person of young age and there is a possibility of his having been misled into this kind of relationship with petitioner No.2.

21. After this order was passed, Mr. Lalit Kumar, learned advocate for the petitioner, expressed his willingness to withdraw the petition.

22. Permitting this petition to be withdrawn would not be possible after recording what transpired in the interaction with the petitioners, their parents and others in presence of the respective counsels.

23. In view of the aforesaid matter, the present petition is dismissed.

24. The Investigating Officer would not get influenced by the dismissal of the present petition.

Crl.M.A.12760/2015

In view of the petition having been dismissed, the application has become infructuous and the same is dismissed as such.

ASHUTOSH KUMAR, J

SEPTEMBER 02, 2015

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