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

+ W.P.(CRL) 2059/2016

AMITABH KUMAR SHAHI

..... Petitioner

Through

:Mr. Lokesh Kumar Mishra and Mr.
Sameer Ojha, Advs.

versus

STATE (GOVT OF NCT OF DELHI) & ORS

..... Respondents

Through

:Mr. Sanjay Lao, ASC with SI
Dharmendra, P.S. Karol Bagh

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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19.07.2016

Crl. M.A. No. 10738/2016 (exemption)

Allowed, subject to all just exceptions. Application is disposed of.

W.P.(CRL) 2059/2016

1. By this petition under Article 226 of the Constitution of India, petitioner has prayed for quashing of FIR No. 948/2015 registered at Police Station Karol Bagh under Section 363 IPC on the complaint of father of the prosecutrix, that is, respondent no. 2. Respondent no. 2 alleged in the FIR that her daughter aged about 15 years had left the house. Subsequently, it was revealed that prosecutrix had married the petitioner. Petitioner and

prosecutrix filed WP(Crl.) No. 844/2016, which has been disposed of by the Division Bench of this Court vide order dated 18th May, 2016 by placing reliance on judgments in Sunil Kumar vs. State NCT of Delhi and Anr. 2007 (2) LRC 56 (Del) (DB), Jintender Kumar Sharma vs. State and Anr. 171 (2000) Delhi Law Times 543 (DB), Ravi Kumar vs. The State, 124 (2005) DLT 1 (DB), Vivek Kumar @ Sanju and Anjali @ Afsana vs. The State and Another being Crl. M.C. Nos. 3073-74/2006 decided on 23rd February, 2007 and Court on its own motion (Lajja Devi) vs. State, 2012 (193) DLT 619, prosecutrix was permitted to continue to stay with her husband (petitioner). The Division Bench opined that it was in the interest and for the well being of the prosecutrix that she continues to stay with the petitioner. Age of the prosecutrix was taken into account in the said proceedings.

2. The petitioner and prosecutrix are still living together. Petitioner and prosecutrix are present in Court and have been identified by the Investigating Officer SI Dharmendra Singh.

3. Learned Single Judge of this Court in Crl. M.C. No. 2234/2012 titled as Prawin Prakahar & Anr. Vs. State Govt. of NCT of Delhi & Anr. decided on 6th March, 2013, in the similar circumstances, where the prosecutrix was less than 18 years, was pleased to quash the FIR No. 24/2011 under Section

363 IPC. It was observed that prosecutrix had not blamed the accused at all and even during investigation she had not agreed to go with her parents after she had been recovered by the police and with this observation she was permitted by the Court to remain in the company of her accused-husband and FIR was quashed. Similar is the view taken by a Learned Single Judge of this Court in WP(Crl.) No. 59/2010 titled Anurag Kumar Gangwar @ Deepu vs. State & Ors. decided on 26th March, 2010. Several judgments on this point were considered and it was observed thus, “In the present case, there has been no coercion, inducement or promise on the part of petitioner. Respondent no. 3 abandoned the guardianship of her parents of her own went up to Muradabad. She then married him of her own and also got the marriage registered and persuaded the petitioner to come to the bus stand and take her with him. She was capable of understanding the implications of the step taken by her. Thus, no role at all was played by the petitioner in respondent no. 3 leaving the house of her parents. No kidnapping, as defined in Section 361 of IPC, is, therefore, made out against the petitioner.” FIR was quashed by the court. In Jitender Kumar Sharma (supra) also similar view has been taken.

4. For the foregoing reasons, FIR No. 948/2015 registered at Police

Station Karol Bagh under Section 363 IPC and the consequent proceedings emanating therefrom are quashed. Petition is disposed of in the above terms.

A.K. PATHAK, J.

JULY 19, 2016
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