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

+ **W.P.(CRL) 2643/2016**

DHEERAJ & ANR.

..... Petitioner

Through: Mr. Manoj Kumar Sharma, Advocate

versus

STATE OF NCT OF DELHI & ANR

..... Respondent

Through: Mr. Ashish Negi, ASC with SI Amit
Pratap Singh, PS H.Nizamuddin.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
09.09.2016

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Issue notice. Counsel for the State accepts notice on behalf of the State. Respondent No.2 is present in Court and accepts notice.

The petitioners have preferred this petition to seek quashing of the FIR No. 404/2016 registered at police station H.Nizamuddin under Sections 363 IPC and the proceedings arising therefrom against petitioner No.1.

The case of the petitioner is that petitioner No. 1 is major and he is married to petitioner No. 2-the daughter of the complainant in respect of whom the aforesaid FIR came to be registered by the father of petitioner No. 2 i.e. respondent No.2.

The petitioners have placed on record their proof of identity and proof

of age. They have also placed on record the copy of marriage certificate issued by Arya Samaj Sewa Mandal (Regd)-S67321/09, 7/44, Yushister Lane, Vishwas Nagar, Shahdara, Delhi – 110032, which shows that the petitioners got married on 01.09.2016. The petitioners are present in court and petitioner No. 2 states that she went with petitioner No. 1 out of her own free will and accord and she has married him voluntarily.

Petitioner No.2, as per the Aadhar Card placed on record, is over 16 years as the date of birth as disclosed in the Aadhar Card is 12.07.1998. The petitioners have also placed on record the report of X-ray of knee of petitioner No. 2, as per which the radiologist has opined that the age of petitioner No. 2 is between 18 to 20 years.

Learned counsel for the petitioner submits that the offence under Section 363 IPC is not made out, since petitioner No. 2 was clearly above 16 years of age as on 23.08.2016 – when she left her house, and she went of her own free will and accord with petitioner No. 1. In this regard, he places reliance on *Court on its own motion (Lajja Devi) & Ors. Vs. State & Ors.* 2012(7) LRC 215 (Del) (FB) and the decision of the Supreme Court in *S.Varadarajan Vs. State of Madras* MANU/SC/0081/1964. The respondent No. 2, who is present in Court, in these circumstances, is also agreeable to the FIR and the proceedings arising therefrom being quashed.

Accordingly, no useful purpose would be served in continuing with the proceedings and the FIR in question. They are accordingly quashed.

The petition stands disposed of.

VIPIN SANGHI, J

SEPTEMBER 09, 2016

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