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

DECIDED ON : JANUARY 16, 2017

+ **CRL.M.C. 4838/2014 & CRL.M.A.No.16616/14**

ABDUL KALAM

..... Petitioner

Through : Mr.Arun K.Sinha, Advocate.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through : Ms.Meenakshi Dahiya, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. Present petition under Section 482 Cr.P.C. has been filed by the petitioner for quashing of the FIR No.380/2014 under Section 363/366/376 IPC and Section 4 of POSCO Act registered at Police Station Patel Nagar. Status report is on record.

2. I have heard the learned counsel for the parties and have examined the file. The present case was registered on the complaint of 'X's (assumed name) father. He lodged complaint on 11.6.2014 reporting that his daughter 'X' was missing. He suspected petitioner's involvement in her

disappearance. FIR was registered under Section 363 IPC. Subsequently the prosecutrix was recovered. Her statement under Section 164 Cr.P.C. was recorded; the appellant was arrested. Statements of the witnesses conversant with the facts were recorded. Upon completion of investigation, a charge-sheet was filed against the petitioner for committing the aforesaid offences.

3. It is not in dispute that the prosecutrix was aged around 17 years at the time of occurrence. Both the prosecutrix and the petitioner were acquainted with each other. In her 164 Cr.P.C. statement, the prosecutrix claimed that she on her own had accompanied the petitioner to Kolkata. They had performed marriage and 'nikahnama' was executed. She further informed that both of them had lived together as husband and wife for about one and a half month. Thereafter, the police brought them to Delhi on the complaint of her father. In her court statement as PW-1, the prosecutrix did not support the prosecution and categorically claimed that the petitioner was her husband and she had married him with her free consent. She further claimed that no physical relations were established without her consent. In her 164 Cr.P.C. statement, she had declined to accompany her parents.

4. Since no incriminating material has emerged on record, continuation of proceedings under Section 363/376 IPC would serve no purpose.

5. The petitioner relied upon the judgment of this Court in 446/2012 *Tahra Begum vs. State & Ors.* wherein it was specifically held that a mohammedan girl who has attained the age of puberty can marry without the consent of her parents.

6. In the light of the above discussion, the petition is allowed and the FIR No.380/2014 under Section 363/366/376 IPC and Section 4 of

POSCO Act registered at Police Station Patel Nagar and all other proceedings emanating out of it are quashed. Pending application stands disposed of. A copy of this order be sent to the Trial Court.

(S.P.GARG)
JUDGE

JANUARY 16, 2017

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