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

+ **CRL.M.C. 4099/2016**

DHARMENDER

..... Petitioner

Represented by: Mr. R.S. Deswal, Adv.

versus

THE STATE (NCT OF DELHI) & ORS.

..... Respondent

Represented by: Mr. Amit Ahlawat, APP with
SI Dinesh PS Sultan Puri.
Mr. Manish Kumar, Adv. for
R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

17.02.2017

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By this petition the petitioner seeks quashing of FIR No.51/2012 under Section 363 IPC registered at PS Alipur, Delhi on the complaint of respondent No.2 on the ground that parties have settled the matter.

The above-noted FIR was registered by the respondent No.2 when his daughter 'B' went missing on 1st February, 2012. In the complaint the respondent No.2 gave the age of 'B' as 12 years 2 months and that she was a student of 12th standard which apparently was an incorrect statement as a 12 year old girl cannot be a student of 12th standard.

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Learned APP for the State submits that during the investigation date of birth of 'B' was verified from the school she first attended wherein her date of birth was mentioned as 5th December, 1994. Thus at the time of alleged incident i.e. on 1st February, 2012 'B' was approximately 17 years 2 months old.

Statement of 'B' was recorded under Section 164 Cr.P.C. by the learned Metropolitan Magistrate wherein she stated that she was the student of 12th standard and was in love with the petitioner. She stated that her parents were trying to marry her to someone whom she did not want to marry and the marriage was fixed for 24th February, 2012. Thus, she told all the facts to the petitioner. She also told the petitioner to take her away otherwise she would consume poison. Thereafter the two of them went to Mussorie on 1st February, 2012 and returned to Panipat on 23rd February, 2012. After staying in a village at Panipat, the Police apprehended them. She stated that during her stay with the petitioner, he committed no sexual intercourse with her.

From the statement of the prosecutrix it is evident that neither the petitioner enticed her nor lured her to take her away from the guardianship. It was on the persuasion, rather on the threat of 'B' that in case the petitioner does not take her away she would consume poison that the petitioner was compelled to take her to Mussorie.

Thus the ingredients of offence punishable under Section 363 IPC are not made out. [See AIR 1965 SC 942 S. Vardharajan Vs. State of Madras] Further the matter has been settled between the parties as respondent No.2 the complainant who is present in Court and is identified by the learned Counsel and investigating officer states that he does not wish to pursue the above-noted FIR and the proceedings pursuant thereto. Therefore the continuance of the above-noted FIR and the proceedings pursuant thereto would be an abuse of the process of the Court and is required to be quashed.

Consequently, FIR No.51/2012 under Section 363 IPC registered at PS Alipur, Delhi and proceedings pursuant thereto are hereby quashed.

Petitioner and respondent No.2 duly identified by their counsels and the investigating officer have signed this order sheet in acknowledgment of their statements made before this Court.

The petition is disposed of. Order dasti.

MUKTA GUPTA, J.

FEBRUARY 17, 2017
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