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

+ W.P.(CRL) 3430/2017

RAMNARAYAN YADAV

..... Petitioner

Through: Mr.Saurabh Jhamb, Advocate with
Petitioner in person

versus

STATE (GOVT OF NCT OF DELHI) & ORS

..... Respondents

Through: Mr.Avi Singh, ASC for the State with
Ms.Megha Bahl, Advocate with
SI Naveen Kumar
Mr.Deepak Kumar, Advocate for R-2
& R-3

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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07.12.2017

1. The present writ petition has been filed by the Petitioner under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for quashing of case FIR No.300/2013, under Sections 363 IPC, registered at P.S. Seelampur, Delhi and consequential proceedings arising therefrom.
2. Notice. Learned ASC for the State as well as learned counsel for respondents no.2 and 3 accept notice.
3. Case FIR No.300/2013 under Section 363 IPC has been registered on the basis of complaint made by complainant/respondent No.2 Pradeep Kumar that his daughter 'K' (name withheld to conceal her identity) aged about 15 years left home alongwith her younger sister. After reaching the

school, 'K' left her there on the pretext that she was going to Mandir where his wife had also gone. However, his wife returned home but his daughter 'K' did not return. He suspected that his daughter had been enticed away by some unknown person.

4. Now the petitioner and respondent No.3, who is daughter of complainant/respondent No.2 Pradeep Kumar, have approached this Court for quashing of FIR No.300/2013 on the ground that they were having a love affair and got married on 21st July, 2013. They submit that they are living happily with their two children i.e. daughter aged 3 years and son Rishab aged 1½ years. Respondent No.3/wife submits that she was in love with the petitioner and she herself accompanied the petitioner of her own sweet will for marrying him.

5. Respondent No.2/complainant – father of respondent No.3/prosecutrix is present and submits that since his daughter is living happily with the petitioner and their two children, he has accepted the marriage of petitioner and respondent No.3. He further submits that he does not wish to continue with the criminal case registered by him regarding missing of his daughter.

6. Learned counsel for the petitioner as well as learned counsel for respondents No.2 and 3 submit that since the respondent No.3/prosecutrix is living happily with her husband and two children and that respondent No.2 – father of respondent No.3 also has no objection if the FIR in question is quashed, no useful purpose would be served by continuing the criminal proceedings against the petitioner. They request that FIR in question and the consequential proceedings arising therefrom may be quashed.

7. Mr.Avi Singh, learned ASC for the State has filed the written submissions wherein prayer for quashing of FIR has been opposed. Learned

ASC for the State has submitted that in view of the decision of the Supreme Court in Independent Thought vs. Union of India 2017 (12) SCALE 621, a marriage with a girl below the age of 18 years cannot validate statutory rape with a minor under 18 years of age who has no power to consent, hence the instant petition may be dismissed.

8. As per Section 375 IPC Exception 2, sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

9. In the FIR itself, age of the prosecutrix has been given as 15 years and there is no allegation of rape being committed on the prosecutrix nor any charge for committing the rape has been framed in the above noted case.

10. The FIR registered against the present petitioner is for committing the offences punishable under Section 363 IPC. From the contents of FIR, it appears that respondent No.3 left her house of her own sweet will to go with the petitioner. Offence punishable under Section 363 IPC is a non-compoundable offence. Respondent No.2/complainant has given in writing that he has accepted the marriage of his daughter with the petitioner and does not want to continue with the criminal proceedings against the petitioner.

13. It is a case of run-away marriage. The Division Bench of this Court in similar cases ordered quashing of FIR. (*Ravi Kumar vs. The State & Anr. 14(2005) DLT 1*).

14. The respondent No.3, who was having love affair with the petitioner, married the petitioner and is now living happily with her husband and two children. Respondent No.2 – father of respondent No.3 is also not interested in prosecuting the petitioner for the above reason. In the given circumstances, I am of the considered view that no useful purpose would be

served by continuing the criminal proceedings against the petitioner, which will only be an exercise in futile and wastage of precious time of the Court.

14. Accordingly, the petition is allowed and FIR No.300/2013, under Sections 363 IPC, registered at P.S. Seelampur, Delhi and all the proceedings arising therefrom are hereby quashed.

Order dasti.

PRATIBHA RANI, J.

DECEMBER 07, 2017

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