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

+ CRL.M.C. 77/2018

ROHIT & ORS

..... Petitioner

Through Mr. Deepak Pandey, Adv. with
petitioners in person.

versus

THE STATE GOVT OF NCT OF DELHI & ORS..... Respondent

Through Mr. Sanjeev Sabharwal, APP for State
with SI Sandeep Rawal PS Kalyanpuri /
R1 & R2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **25.04.2018**

Vide the present petition, the petitioners no. 1, 2 & 3 i.e. Rohit spouse of the petitioner no. 2 and the petitioner no. 2 daughter of the petitioner no. 3 i.e. the complainant of the FIR No. 305/13, registered at PS Kalyanpuri seek quashing of the said FIR under Sections 363/366 of the Indian Penal Code, 1860 submitting to the effect that all disputes between the parties have been settled and that the petitioners no. 1 & 2 have married and that the FIR had been got registered by the petitioner no. 3 in as much as the petitioner no. 2 was aged 16 years at the time of the registration of the said FIR dated 08.05.2013. The petition indicates that a CRL. M.C. 2338/2013 titled as Rohit & Ors. Vs. State (NCT) of Delhi seeking quashing of the said FIR had been

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filed earlier and vide order dated 30.05.2013 of this Court in the said petition, the petitioner no. 1 was allowed to be released on bail subject to his furnishing a bail bond with directions also that qua the prayer made by the petitioners seeking quashing of the FIR and it was observed that it was to be seen how the marriage progresses and thus that petition was disposed of as pre-mature with liberty to the petitioners to seek quashing of the FIR in question after a period of one year from the said date i.e. 30.05.2013.

In view of the said observations in order dated 30.05.2013 in Crl. M.C. 2338/13 vide order dated 08.01.2018 the State was directed to conduct a verification in relation to the factum as to whether the petitioner no. 1 and the petitioner no. 2 were living together peacefully and the status report of the Investigating Officer in relation to the verification conducted has been submitted under the signatures of the Investigating Officer SI Sandeep Rawal PS Kalyanpuri, who is present, who had submitted the statements of two persons namely Bobby Kumar and Kali Charan and it had been indicated that the petitioners no. 1 & 2 are living together peacefully and without any dispute between them. To similar effect is the statement that has been made by the Investigating Officer present today in the Court, who has identified the petitioners no. 1, 2 & 3.

In view of the factum that the FIR was registered *inter alia* under Sections 363/366 of the Indian Penal Code, 1860, the date of birth of the petitioner no. 2 was directed to be verified by the State and the State has put forth the school certificate issued by the Vedic Public School to the

effect that the date of birth of the petitioner no. 2 is 01.07.1999 as per the school admission register and also as per the affidavit of Gauri Shanker, the father of the petitioner no. 2 dated 29.04.2009 submitted to the school.

The petitioner no. 2 in her statement recorded today has stated that she is living peacefully and she has married the petitioner no. 1 of her own accord in the year 2013 and has stated that her date of birth is 27.11.1997. She has further stated that she is 20 years of age now and the petitioner no. 3 has submitted that she does not seek the continuation of the proceedings in relation to the FIR in question.

On behalf of the State, it has been submitted that in view of the circumstances of the case despite the date of birth of the petitioner no. 2 being 01.07.1999 as per the school record of Vedic Public School, the State does not oppose the prayer made by the petitioners seeking quashing of the FIR in question.

Though admittedly the offences punishable under Section 363/366 of the Indian Penal Code, 1860 are not compoundable and are grave in nature, taking the totality of the circumstances of the case and taking into account that the petitioners no. 1 & 2 are living together since 8.05.2013 and the complainant i.e. the mother of the petitioner no. 2 has also stated that the petitioner no. 2 is living peacefully with the petitioner no. 1 to which similar effect is the verification report submitted by the Investigating Officer also, no useful purpose would be served by continuance of the proceedings in the instant case as the scope of conviction in the instant case is wholly bleak.

As the petitioners no. 1 & 2 are living peacefully, in the circumstances the proceeding in relation to the FIR No. 305/13, registered at PS Kalyanpuri seeking quashing of the said FIR under Sections 363/366 of the Indian Penal Code, 1860 against the petitioner no. 1 Rohit and all consequential proceedings emanating therefrom are quashed. The petition CRL.M.C. 77/2018 is thus disposed of.

It is made expressly clear that the observations in the present proceedings are related to the facts and circumstances of the instant case and are not to be treated as a precedent.

ANU MALHOTRA, J

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ROHIT & ORS versus THE STATE GOVT OF NCT OF DELHI & ORS

Statement of CW1 : SI Sandeep Rawal, PS Kalyanpuri, Delhi.

ON S.A.

I identify the petitioner no. 1 Rohit s/o Sh. Leelu Singh as being the accused in relation to the FIR No. 305/13, registered at PS Kalyanpuri, under Sections 363/366 of the Indian Penal Code, 1860. The petitioner no.2 is the prosecutrix in the instant case and the complainant Shakuntla Devi w/o Sh. Gauri Shankar is the petitioner no. 3. The petitioners no. 1 & 2 have since married and are living peacefully without any problems.

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ROHIT & ORS versus THE STATE GOVT OF NCT OF DELHI & ORS

**Statement of CW2 : Shakuntla Devi w/o Sh. Gauri Shankar, aged 64 years
r/o 2/398, Trilok Puri, Chilla Saroda Khadar, Delhi.**

ON S.A.

The petitioner no. 1 Rohit s/o Sh. Leelu Singh has married with my daughter i.e. the petitioner no. 2 Kavita @ Sanu in the year 2013 and they are living together peacefully. I do not oppose the prayer made by the petitioners 1 & 2 and I am also the petitioner and seek quashing of the FIR No. 305/13, registered at PS Kalyanpuri, under Sections 363/366 of the Indian Penal Code, 1860. I do not want the petitioner no. 1 to be punished in relation thereto.

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ROHIT & ORS versus THE STATE GOVT OF NCT OF DELHI & ORS

Statement of CW3 : Kavita @ Sanu w/o Sh. Rohit d/o Sh. Gauri Shankar, aged 20 years r/o 3/279, Block-3, Trilok Puri, Chilla, Delhi.

ON S.A.

The petitioner no. 1 Rohit s/o Sh. Leelu Singh is my husband. The petitioner no. 3 Shakuntla Devi is my mother and I have married with the petitioner no. 1 on 08.05.2013. I was 15 years of age at that time. I am living peacefully with the petitioner no. 1. I seek quashing of the FIR No. 305/13, registered at PS Kalyanpuri, under Sections 363/366 of the Indian Penal Code, 1860 and all consequently proceedings emanating therefrom. I do not want the petitioner no. 1 to be punished in relation thereto. My date of birth is 27.11.1997.

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ANU MALHOTRA, J