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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5327/2017 & CRL.M.A. 20858/2017**

SANTOSH KUMAR Petitioner
Through: Mr. Narender Singh, Adv.

versus

STATE NCT OF DELHI & ANR Respondent
Through: Mr. Panna Lal Sharma, APP for State
with SI Sunil Kr. PS Govind Puri.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

17.04.2018

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The status report has been submitted by the State in terms of proceedings dated 13.02.2018 qua the factum of marriage between the petitioner and Shrabani Saha, the daughter of the respondent no.2.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Santosh Kumar, s/o Shri Ram Dev Singh as being the sole accused arrayed in FIR No.820/2015, registered at PS Govind Puri, under Sections 363/366 Indian Penal Code, 1860 and has identified the respondent no.2 Mrs. Shantana present today in Court as being the complainant thereof and has also identified Ms. Shrabani Saha present today in Court as being the prosecutrix in relation thereto.

Placed on record along with the petition is the statement under Section 164 Cr.PC, 1973 of the prosecutrix Shrabani Saha indicating that she had left of her own accord with the petitioner at the time she was about

17 years of age. As observed hereinabove, the status report submitted by the State qua the factum of the marriage between the petitioner and Shrabani Saha and the statement of the Pujari of Shiv Gauri Mandir, Budaun, Uttar Pradesh dated 13.04.2018 indicates that the marriage between the petitioner and the prosecutrix had taken place sometime three years before the date of said certificate i.e. 13.04.2018 and which the respondent no.2 states had been effected on 28.06.2015; The birth certificate of the child Aaradhya Singh born of the wedlock between the petitioner is also on the record indicating that the child was born on 25.10.2016 and the status report previously submitted by the State dated 14.04.2018 also indicates that the birth certificate issued by the SDMC has been found to be genuine. Mrs. Shrabani Saha submits that she has no problem now with the petitioner.

On behalf of the State there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question.

Taking the totality of the circumstances of the case into account as it is apparent that no useful purpose would be served by further continuation of the proceedings between the parties as scope of conviction is wholly bleak and the factum that Shrabani Saha was sufficiently mature at the time of the alleged commission of the offence and her statement under Section 164 Cr.PC, 1973 exonerating the petitioner in toto and the factum of the marriage between the petitioner and Ms. Shrabani Saha, it is considered appropriate in the interest of justice, to allow the prayer made by the petitioner seeking quashing of the FIR in question and thus the FIR No.820/2015, registered at PS Govind Puri, under Sections 363/366 Indian

Penal Code, 1860 in the circumstances of the case alone is allowed to be quashed along with all the consequential proceedings emanating therefrom against the petitioner.

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

The petition is disposed of.

ANU MALHOTRA, J

APRIL 17, 2018

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CRL.M.C. 5327/2017

SANTOSH KUMAR

Vs. STATE NCT OF DELHI & ANR

Statement of CW1 : SI Sunil Kumar, PS Govind Puri, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Santosh Kumar, s/o Shri Ram Dev Singh as being the sole accused arrayed in FIR No.820/2015, registered at PS Govind Puri, under Sections 363/366 Indian Penal Code, 1860. I also identify the respondent no.2 Mrs. Shantana present today in Court as being the complainant thereof. I also identify the prosecutrix Shrabani Saha present today in Court as being the daughter of the respondent no.2. as per the verification report, conducted by me, Ms. Shrabani Saha, the prosecutrix as married the petitioner and the status report dated 14.04.2018 has already been previously submitted qua the birth of a child Aaradhya Singh born of the wedlock between the petitioner and Shrabani Saha on 24.10.2016 which has been verified and the birth certificate issued in relation thereto has been found to be genuine.

Ex.CW1/A & Ex. CW1/B are the copies of the Aadhar Cards of the petitioner and the respondent no.2. The proof of identify of the prosecutrix in the form of her original Aadhar Card has been produced, copy of which be is on the record as Ex.CW1/C. (originals seen and returned).

ANU MALHOTRA, J

RO & AC

APRIL 17, 2018

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SANTOSH KUMAR

Vs. STATE NCT OF DELHI & ANR

Statement of CW2 : Smt. Shantana, w/o Shri Kumaresh Saha, aged 44 years, r/o H.No.61, Gali No. 20, Chhariya Mohalla, TKD Village, New Delhi.

ON S.A.

I do not seek any further prosecution against my son-in-law Mr. Santosh Kumar in relation to the FIR No.820/2015, registered at PS Govind Puri, under Sections 363/366 Indian Penal Code, 1860. My daughter Shrabani Saha in relation to whom I got the FIR registered have since married to the petitioner and there is a child born of the wedlock between the petitioner and my daughter Shrabani Saha. I do not seek the petitioner to be punished in relation thereto. My daughter is now aged 20 years.

I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

RO & AC

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SANTOSH KUMAR

Vs. STATE NCT OF DELHI & ANR

Statement of CW3 : Smt. Shrabani Saha, d/o Shri Shri Kumaresh Saha, w/o Shri Santosh Saha, aged 20 years, r/o H.No.61, Gali No.-20, TKD Village, Bengali Colony, New Delhi.

ON S.A.

I have since been married to the petitioner on 28.06.2015. (it is affirmed on behalf of the State that as per the certificate issued by Pujari of Shiv Gauri Mandir, Budaun, Uttar Pradesh dated 13.04.2018, the petitioner and Ms. Shrabani Saha has got married approximately three years prior to the date of issuing of the said certificate i.e. 13.04.2018.) I have a daughter named Aaradhya Singh born of the wedlock between me and the petitioner. The child is aged 1 ½ years. My statement under Section 164 Cr.PC, 1973 dated 03.12.2016 recorded before MM (Mahil Court), Saket Courts bears my signature thereon at points-A & B as visible on copy thereof as Ex. CW3/A.

I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

RO & AC

APRIL 17, 2018