

\$~5

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

+ **W.P.(CRL) 3276/2018**

ROHIT NAGAR

..... Petitioner

Represented by: **Mr. M.K. Duggal, Advocate.**

versus

STATE (NCT OF DELHI)& ORS

..... Respondent

Represented by: **Mr. Rajesh Mahajan, ASC with SI
Jitender, PS K.N.Katju Marg.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

15.02.2019

%

1. By this petition, the petitioner seeks quashing of FIR No. 352/2018 under Sections 363/354 IPC and Section 8 of Protection of Children from Sexual Offences (in short 'POCSO' Act) on the ground that parties have settled the matter.

2. A status report has been filed. As per the State report the above noted FIR was initially registered under Section 363 IPC when the respondent No. 2 gave an information at 7:21 P.M. on 8th October, 2018 that her daughter i.e. respondent No. 3 was missing and she suspected her being kidnapped. On the Investigating Officer reaching the spot respondent No. 2 stated that her daughter aged 16 years had gone to purchase biscuits at 4:30 P.M. on 8th October, 2018 and was missing since then and she apprehended that some unknown person has kidnapped her. Thus FIR No. 352/2018 under Section 363 IPC was registered at PS K.N. Katju Marg.

W.P.(CRL) 3276/2018

page 1 of 3

3. On the intervening night of 8-9th October, 2018 itself the complainant, respondent No. 2, along with her daughter, respondent No. 3, came to the police station. Statement of respondent No. 3 was recorded wherein she stated that she was studying in 10th standard from open school and the petitioner, who is her Mause, and her Mausie were residing at 1st Floor of the house. Whenever she was alone the petitioner used to hug her, touched her private parts and molested her. Even on 8th October, 2018 at 2:00-3:00 P.M. when she was alone petitioner knocked the door, on enquiry nobody responded and she opened the door and he started molesting her. When his wife called the petitioner, he left the room. Thus, Section 354 IPC and Section 8 of POCSO Act to the Investigation were also added in the FIR.

4. On 9th October, 2018 statement of the victim i.e. respondent No. 3 was recorded under Section 164 Cr.P.C. before the learned Metropolitan Magistrate wherein she stated that she had called her friend Saddam but he refused to take her to his house, however, on forcing by her he took her at his house. When the petitioner who is her uncle came to know, he beat Saddam due to which she levelled the allegations against the petitioner in the statement recorded under Section 161 Cr.P.C.

5. The respondent No. 2 mother of respondent No. 3 along with respondent No. 3 is present in Court and states that she does not wish to pursue the above noted FIR and the proceedings pursuant thereto. De-hors the statement of the respondent No. 2 and the settlement between the parties it is apparent from the statement of the respondent No. 3 recorded under Section 164 Cr.P.C. before the learned Metropolitan Magistrate, complaint of the respondent No. 2 on the basis of which FIR under Section 363 IPC

was registered and also the history given in the MLC wherein again she stated that she eloped with the boy, that the respondent No. 3 had actually gone with someone for which the FIR was registered by the mother, apprehending kidnapping and when the petitioner as an elder took steps on being agitated, allegations of molestation were levelled against him.

6. Considering the facts noted above as also the fact that respondent No. 2 who is present in Court and is identified by the Investigating Officer and does not wish to pursue the above noted FIR and the proceedings, this Court deems it fit to quash the FIR and proceedings thereto in question.

7. Consequently, FIR No. 352/2018 under Sections 363/354 IPC and Section 8 of POCSO Act and proceedings pursuant thereto are hereby quashed.

8. Respondent No. 2 has signed this order sheet in acknowledgment of her statements made before this Court.

9. Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

FEBRUARY 15, 2019
‘yo’