

\$~22

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

% *Date of decision: 09.02.2021*

+ **Crl.M.C. 1431/2020 & Crl.M.A. 5516-17/2021**

VINOD @ BISHAL DUTT Petitioner
Through: Mr. Dinesh Kothari, Advocate

Versus

STATE & ANR. Respondents
Through: Mr.G.M.Farooqui, Additional Public
Prosecutor for State with SI Rajesh
Verma, PS Sarojini Nagar

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

The hearing has been conducted through video conferencing.

1. Petitioner seeks quashing of FIR No. 18/2020, u/s 376 IPC and Section 6 of Protection of Children from Sexual Offences Act, registered at police station Sarojini Nagar, New Delhi in this petition.
2. Learned Additional Public Prosecutor for State has drawn attention of this Court to the status report placed on record, wherein it is categorically stated that as per Ossification Test Report, dated 24.01.2020 obtained from Safdarjung Hospital, New Delhi, prosecutrix is more than 18 years of age but below 19 years and, resultantly, Section 6 Protection of Children from Sexual Offences Act was removed from the FIR in question.

3. Learned Additional Public Prosecutor for State further submits that factum of marriage of petitioner with prosecutrix/complainant in March, 2020 at Nanakram Swarg Ashram, Parmanand Chowk, GTB Nagar, Delhi stands verified.

4. Learned counsel for petitioner submits that marriage between petitioner and prosecutrix was solemnized on 21.03.2020 as per Hindu rites in the presence of family members and relatives and a copy of marriage certificate to this effect has been placed on record. Learned counsel for petitioner submits that to enable the parties to lead a happy married life, this petition deserves to be allowed.

5. In a somewhat similar circumstances, a Bench of Punjab and Haryana High Court in ***CRM-M No.47266 of 2019, Pankaj @ Sikandar Kumar Vs. State of U.T., Chandigarh and another, decided on 05.03.2020***, while quashing the proceedings for the offences under Section 376 IPC, has observed as under:-

“5. In normal circumstances, the Court would not entertain a matter when the non compoundable offences are heinous in nature and against the public. In the instant case, the offence, complained of is under Section 376 IPC, which is an offence of grave nature. In the eyes of law, the offence of rape is serious and non-compoundable and the Courts should not in ordinary circumstances interfere and quash the FIR that has been registered. However, there are always

exceptions to the normal rules and certain categories of cases, which deserve consideration specially when it is a case of love affair between teenagers and due to fear of the society and pressure from the community one party alleges rape, cases where the accused and the victim are well known to each other and allegation of rape is levelled only because the accused refused to marry, as well as the age, educational maturity and the mental capacity, consequences of the same ought to be kept in mind when inclined to interfere.”

6. Although, as per the directions of the Hon’ble Supreme Court in ***Parbat Bhai Aahir and Ors. vs. State of Gujrat & Ors. (AIR 2017 SC 4843)***, the FIR should not be quashed in case of rape as it is a heinous offence, but when complainant/prosecutrix herself takes the initiative and states that she made the complaint due to some misunderstanding and now wants to give quietus to the misunderstanding which arose between her and the petitioner, in my considered opinion, in such cases, there will be no purpose in continuing with the trial. Ultimately, if such direction is issued, the result will be of acquittal in favour of the accused, but substantial public time shall be wasted. A similar view was taken by this court in the case of ***Danish Ali v. State and Anr. in Crl. M.C. 1727/2019.***

7. Taking into account the aforesaid facts and the fact that the petitioner and prosecutrix have already married on 21.03.2020, therefore, this Court is inclined to quash the present FIR as no useful purpose would be served in

prosecuting petitioner any further.

8. For the reasons afore-recorded, FIR No. 18/2020, u/s 376, registered at police station Sarojini Nagar, New Delhi and all other proceedings arising therefrom are quashed.

9. The petition and pending applications are accordingly disposed of.

10. The order be uploaded on the website forthwith.

SURESH KUMAR KAIT, J

FEBRUARY 09, 2021

r