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

+ CRL.M.C. 1455/2022
PARAMJEET

..... Petitioner

Through: Mr.Sanjeev Kumar and Mr.Abhyanand,
Advocates

Versus

THE STATE (GOVT. OF NCT OF DELHI) AND ORS.

..... Respondents

Through: Mr.Hemant Mehla, APP for the State
SI Rahul, PS Bawana
Mr.Harsh Prabhakar, Adv. (DHCLSC),
Mr.Dhruv Chaudhry, Mr.Adeeb Ahmad,
Advocates for respondent no.3 with father
of respondent no.3 in person.

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Date of Decision: 18.01.2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. This is a petition under section 482 Cr.P.C. seeking quashing of FIR No. 379/2020 dated 22.06.2020 under sections 363/354/34 of IPC and section 12 of POCSO Act registered at PS Bawana and subsequent proceedings emanating therefrom. The said FIR was lodged at the complaint of the respondent No. 2 herein who is the grandmother of the victim i.e. respondent No. 3 herein.

2. Learned counsel submits that the Chargesheet in the said matter has already been filed. It has been submitted that the petitioner was granted anticipatory bail by the learned ASJ, Rohini Courts, Delhi vide order dated 06.07.2020.
3. Learned counsel for the respondent No. 2 and 3 submits that the complainant/Respondent No.2 and the victim/ Respondent No.3 are supporting the prayers sought for in the present petition on account of the settlement arrived at between the parties. The affidavits of both Respondent No. 2 and respondent No. 3 (through her father) are on record and reflect that the parties have settled the matter and have no objection if the present FIR and the proceedings emanating therefrom are quashed.
4. Learned counsel for the respondent No. 2 and 3 submits that the parties have amicably resolved all their disputes voluntary without any coercion, force, fraud, or undue influence and no longer want to pursue the proceedings in the subject FIR. The settlement deed dated 29.03.2022 has also been placed on record. Learned counsel submits that the said settlement of the present proceedings would subserve the interests of justice and would be conducive to the victim, who would otherwise be required to participate as a witness in the criminal trial at a tender age.
5. As per the Status Report dated 22.05.2022 it has been stated that the chargesheet in the present case stands filed and the matter is pending before the learned ASJ/Spl. FTC at the stage of the prosecution evidence.

6. I have considered the submissions and perused the records. The settlement deed dated 29.03.2022 reveals that the subject FIR was registered due to misunderstandings, miscommunication and implied imputations. It has been agreed that the parties have amicably resolved all their disputes and do not wish to pursue the said FIR. It has been agreed that respondent nos. 2 and 3 have no objection if the said FIR is quashed. The parties undertook to not file any civil or criminal complaint against each other qua the present FIR. It has been further agreed that the parties shall withdraw all allegations and pertaining to the present matter.
7. Learned Counsel for the petitioner submits that the victim in her statement recorded under section 164 Cr.P.C. stated that the respondent No.3 had misrepresented her real age to the petitioner/accused. The respondent No.3 had told the petitioner that she was 20 yrs. when in fact she was only 14 yrs. and only informed him about her real age on 23.06.2023. Upon being informed the petitioner said that they did a very wrong thing and left the respondent no.3 at Bawana Chowk and did not return.
8. It has been held in a catena of judgements of the Supreme Court as well as this Court that the High Court has the inherent power to quash criminal proceedings even in those cases which are not compoundable. However, such power is to be used sparingly with caution and circumspection. It is imperative that while exercising such inherent power, the High Court must examine as to whether the possibility of conviction is remote and bleak and whether continuation of criminal

proceedings would put the accused to great oppression and prejudice. Section 482 Cr.P.C. empowers the High Courts to prevent abuse of the process of the court or to secure the ends of justice. Thus, while adjudicating whether a FIR or criminal proceeding is liable to be quashed, the High Courts must evaluate and weigh if the ends of justice would be served and justify the exercise of inherent power.

9. This Court in an umpteen number of such cases have quashed the criminal proceedings. Reliance can be placed on the orders of this Court dated 17.01.2019 in ***Ramesh vs The State (NCT of Delhi)***, CRL.M.C. 6245/2018; order dated 02.12.2021 in ***Rohit Kumar vs. The State NCT of Delhi and Anr.***, CRL.M.C. 3096/2021; order dated 17.08.2018 in ***Dinesh Kumar vs. The State (NCT of Delhi) & Ors.***, CRL.M.C. 4161/2018; judgement dated 10.09.2018 in ***Sandeep & Anr. vs. State & Ors.***, CRL.M.C. 3277/2018.
10. In the present case it is an admitted matter of record that the respondent No. 3/victim had misrepresented her age to the petitioner/accused. The FIR was lodged under sections 363/354/34 of IPC and section 12 of POCSO Act. However, since the age of the respondent No. 3 was misrepresented to the petitioner/accused and the petitioner/accused was bonafidely unaware that the respondent No. 3 was in fact a minor, the element of *mens rea* which is an essential element to attract the abovesaid sections were absent. Thus, in such situations where there is misrepresentation with respect to age by the prosecutrix showing that she was a major, it would be unjust to saddle the accused with a finding of guilt under the rigorous provisions of POCSO Act as *mens rea*

would be absent. (Refer *State Vs. Kaishar Ali*, 2019 SCC OnLine Del 9875). In the absence of *mens rea* and the presence of a genuine settlement between the parties, it can be inferred that the respondent nos. 2 and 3 no longer want to pursue the criminal proceedings in the present case.

11. The dispute between the parties have been settled and the continuance of the FIR No. 379/2020 would serve no useful purpose and may cause prejudice to the petitioner and be an exercise in futility. The chances of conviction would also be bleak and remote, given the parties do not wish to pursue the present complaint. I do not see any reason to reject the settlement. It is better to put a quietus to the dispute in view of the settlement deed arrived at between the parties voluntarily without any force, fear and coercion.
12. Taking into account the peculiar facts and circumstances of the present case and to prevent the abuse of the power of the Court and to secure the ends of justice this court deems it fit to quash the FIR No 379/2020 and the criminal proceedings emanating therefrom.
13. Accordingly, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

JANUARY 18, 2023

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