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

+ CRL.M.C. 5460/2022, CRL.M.A. 2227/2023

ANSHUMAN @ ANSHUMAN RAJHANS Petitioner

Through: Mr. Hrishikesh Baruah and Mr.
Siddhant Kaushik, Advs.

versus

STATE & ANR. Respondents

Through: Mr. Hemant Mehla, APP for the State
with Mr. Dipanshu Meena, Adv. With
WSI Soni Lal, PS Rajinder Nagar.
Mr. Manohar Pratap and Mr. Salaj
Kumar Rai, Advs. for R-2

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Date of Decision: 15.03.2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present petition has been filed under Section 482 Cr. P.C. seeking quashing of FIR No. 150/22 dated 15.05.2022 registered under sections 376 IPC at PS Rajinder Nagar; Chargesheet under sections 376/323 IPC and all other consequent proceedings emanating therefrom pending before the Learned ASJ, THC, in case SC No. 565/2022. The said FIR was lodged at the instance of the respondent No.2/complainant against the petitioner alleging therein that the petitioner had committed rape upon her on multiple occasions on the pretext of marriage.

2. Briefly stated the allegations as per the FIR are that the respondent No.2/complainant and the petitioner met each other in Old Rajinder Nagar Delhi, in August 2020 while preparing for UPSC exam. It has been alleged that the petitioner approached her multiple times & expressed his feelings towards her. It has been alleged that the respondent No.2/complainant told the petitioner that she does not want any temporary relationship and wants a permanent one. It has been alleged that the petitioner promised to marry the respondent No.2/complainant and proposed to her on 04.09.2020 at her place at 23/45, 3rd floor, Old Rajinder Nagar, Delhi. Thereafter, they went to the petitioner's room at 3/35, Ground Floor, Old Rajinder Nagar, to celebrate, whereby, the petitioner tried to come close to her, she denied his advancement, but he convinced her that they are going to marry soon and on the pretext of marriage, raped her. It has been alleged that the complainant started the relationship because the petitioner/ accused promised her of marriage. It has been alleged that the petitioner/accused on numerous occasions made physical relations with the complainant on the pretext of marriage at multiple locations of Delhi, Dehradun (IGNFA) FRI, Chakrata etc. It has been alleged that the petitioner used to keep a count of whenever they used to make physical relations. Allegedly from September 2020 to May 2022, the petitioner/accused has raped the complainant around 400 times on the pretext of marriage. It has been alleged that in February & April' 22 the petitioner spoke with the complainant's brother and promised him that he would marry the complainant in September' 2022 as she was facing pressure to get married. In April 2022, when the complainant went to meet the petitioner in Dehradun, she discovered used condoms, viagra packets in his room and also found the petitioner to be using an online

dating application. Aggrieved, she decided to leave him, but the petitioner promised to marry her. Thereafter on 27.04.2022, the petitioner took the complainant to a temple namely Prachin Shiv Mandir, Panditwadi, Dehradun, where he bought sindoor and mangalsutra and married the complainant by taking 7 rounds around the fire and making 7 promises. Thereafter, on 28.04.2022, the petitioner took her to Chakrata, Dehradun, for honeymoon. It has been alleged that they stayed in different hotels and the petitioner made physical relations with the complainant on multiple times. It has been alleged that when the complainant denied his advancement, he said, she is his wife now & it is his right to have physical relation with her. It has been alleged that later, on 06.05.2022, the petitioner sent her back to Mumbai and told her that he is going to come in 7 days to meet her parents & talk about marriage. However, when she reached Mumbai, he stopped talking to her properly, blocked her on social media and did not reply to her calls & messages. Respondent no.2/complainant alleged that on the false pretext of marriage, the petitioner established physical relations with her & ran away.

3. On the basis of the above complaint, the present FIR came to be registered. Upon receipt of the complaint, the complainant was taken for her Internal Medical Examination which was initially refused by her. Thereafter, her statement u/s 164 Cr.P.C. was recorded whereby she reiterated her original complaint. Later, the complainant made a written request to the IO to re-conduct her medical examination and the same was conducted in RML Hospital. On the basis of the statement made by her in the MLC, section 323 was added in the chargesheet.

4. It has been submitted that the petitioner was arrested on 03.07.2022 while his anticipatory bail was listed for 04.07.2022. Since the same had become infructuous pursuant to the arrest of the petitioner, an application for regular bail was moved and the same was dismissed by the Ld. ASJ, THC, Delhi vide order dated 18.07.2022. Aggrieved the petitioner moved this Court by way of a regular bail application, and this Court vide order dated 27.09.2022 granted bail to the petitioner subject to certain conditions imposed therein.

5. Learned counsel for the petitioner submits that while the proceedings were underway, the petitioner and respondent No.2/complainant got married on 13.10.2022 with the blessings of their family members and the marriage was solemnized as per Hindu customs and rituals. Learned counsel submits that the Certificate of marriage issued by the Arya Samaj Vivah Sthal Trust dated 13.10.2022 is on the record and reflects the same. Learned counsel submits that on the same day i.e. 13.10.2022 the petitioner and respondent No.2/complainant applied for registration of their marriage and their appointment was fixed for 17.10.2022.

6. On 20.10.2022 when the present matter was taken up for the first time it was submitted by the Ld. Counsel for the petitioner that the petitioner and respondent No.2 were in a relationship and the present FIR arose due to misunderstandings between the parties. It was submitted that the parties got married to each other on 13.10.2022.

7. The marriage certificate duly registering the marriage between the petitioner and the respondent No. 2/complainant issued by the Revenue

department, Govt. of NCT of Delhi Office of DM, Kotwali Central District dated 17.10.2022 is also placed on record.

8. It has been submitted that in compliance of the directions of this Court vide order dated 13.03.2023, the affidavit of respondent No.2/complainant supporting the averments made in the present petition has been filed. Status Report by the State has also been filed. A bare perusal of both reflects that the respondent got married to the petitioner out of her own free will on 13.10.2022 and has been residing with him ever since. As per the Status Report the chargesheet has been filed and the matter is pending before the Ld. ASJ, THC, Delhi and is now at the stage of Misc. Appearance. It has been stated that the charges are yet to be framed and the next date of hearing before the Ld. Trial Court is on 29.04.2023. Further, as per the Status Report a notice U/s 91 Cr. PC was served to the concerned authority for verification of the Marriage Certificate. It has been submitted that the same stands verified.

9. Ld. Counsel for the petitioner submits that since the parties have amicably resolved all their disputes and are happily married and residing with each other, no useful purpose would be served in continuing with the present FIR and thus seeks quashing of the same.

10. Ld. Counsel has placed reliance on the judgement dated 24.05.2022 of this Court in *Dr. Aamir Khan vs State & Anr.*, (2022) 291 DLT 104, whereby, on similar facts this Court while relying on the principles enunciated in *Kundan & Anr vs. State & Ors.*, CrI. MC 27/2022, quashed the FIR under offences under sections 376/328 IPC and *inter alia* held as under:

“10. In the above-mentioned matter, apart from invoking Section 376 IPC in the FIR in question, Section 6 of POCSO Act was also added as the prosecutrix was a minor. Even under those circumstances, a coordinate bench of this Court was pleased to quash the FIR, only with a view to save the marriage of the parties and keeping in view that both the parties were in love with each other. In the present case also, both the parties were and are in love with each other; the families of the parties were also ready regarding fixing the marriage. Although, in between certain disputes arose, which led to filing of FIR and the petitioner has remained in jail for continuously 7 days immediately after getting married on 14.12.2021. No useful purpose will be served by keeping present FIR alive as both the parties are living happily as husband and wife and apart from technical approach, this Court has also to take a humanitarian approach and to do complete justice, this Court exercises its power under Section 482 Cr.P.C. and hereby orders for quashing of FIR No. 438/2021 under Sections 376/328 IPC registered at PS Ranjit Nagar, Central Delhi and the proceedings emanating therefrom including the charge-sheet dated 14.03.2022 filed in the concerned court.”

11. I have heard the submissions and perused the records. It is an admitted position that the parties were known to each other and in a consensual relationship with each other prior to the registration of the FIR on 15.05.2022. It is also not disputed that the petitioner and respondent got

married to each other on 27.04.2022. The same is reflected from the FIR and her statement under section 164 Cr.P.C. It is also an admitted position, that thereafter on 13.10.2022 the respondent No.2/complainant got married to the petitioner out of her own free will with the blessings of their family members. The Marriage certificate issued by Arya Samaj Vivah Sthal Trust dated 13.10.2022 affirms the said fact. Moreover, the marriage between the parties has been registered on 17.10.2022 and the marriage registration certificate duly registering the marriage has also been verified. Further, the affidavit of the respondent No.2/complainant supporting the averments made in the petition is also on record. As per the affidavit the respondent no.2/complainant has resolved all disputes with the petitioner and has willingly married the petitioner on 13.10.2022, with the blessings of their families as per Hindu rites and customs. It has been stated that the marriage has been registered vide registration certificate dated 17.10.2022. It has been stated that the respondent no.2/complainant and petitioner are now living happily and peacefully as husband and wife. It has been urged that the present FIR arose due to some misunderstandings between the parties, which now stands resolved. It has been stated that the respondent No. 2 does not wish to pursue the present FIR and has no objection if the same is quashed.

12. Although, as per the directions enumerated by the Hon'ble Supreme Court in *Parbatbhai Aahir and Ors. vs. State of Gujrat & Ors.* (2017) 9 SCC 641, that FIRs in cases of rape and other such heinous offences such as rape, dacoity, murder should not be quashed as such offences are not private in nature and have serious ramifications on the society at large. The decision

to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

13. This Court in a plethora of cases has quashed the FIR and consequent proceedings under section 376 of IPC, whereby the parties were stated to be in a consensual relationship for several years prior to the registration of the FIR, had arrived at an amicable settlement and the complainant had filed an affidavit supporting the case of the petitioner stating that she does not wish to pursue the complaint.

14. In **Danish Ali**, CrI MC 1727/2019; **Vivek Kumar Yadav**, CrI. MC 1034/2021; and **Lalit Kumar Vats**, CrI.MC 2384/2020; **Capt. Simranjit Singh Sambhi vs. State (NCT of Delh) and Anr.** 2022 (289) DLT 473, this Court has quashed proceedings under 376 IPC wherein the parties were in a consensual relationship and the matter stood settled and held that although as per the directions of the Hon'ble Supreme Court in **Parbatbhai Aahir** (supra), the FIR should not be quashed in case of rape as it is an heinous offence, but when the respondent no. 2/complainant/prosecutrix herself takes the initiative and files affidavits before the Court, stating that she made the complaint due to some misunderstanding and now wants to put quietus to the misunderstanding which arose between the petitioner and respondent no. 2. 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.

15. In the present case, admittedly the FIR was lodged due to some misunderstandings that arose between the parties who were stated to be in a consensual relationship. Upon careful perusal of the records the following salient facts emerge i.e. firstly the parties were known to each other and

were admittedly in a consensual relationship with each other. Secondly the respondent No.2 and petitioner allegedly got married on 27.04.2022, prior to the registration of the FIR on 15.05.2022, which is stated to have arisen due to misunderstandings between the parties. Thirdly, the parties eventually got married to each other on 13.10.2022 with the blessings of the family members and have been residing together happily ever since. Fourthly, the marriage has been registered and the said registration of marriage has been verified. In view of the above, this Court considers that no useful purpose would be served if the present FIR is kept alive.

16. Further, this Court vide judgement dated 16.09.2022 in CrI. MC 4655/2022 titled **Salman Rahman vs. State, Govt of NCT of Delhi & Anr.**; vide judgement dated 02.06.2022 in WP (CrI.) 1185/2022 titled **Arshad Ahmad and Ors. Vs State NCT of Delhi and Anr.**; and in **Ashish vs. State & Anr.**, 2021 SCC OnLine Del 3160, quashed the FIRs under section 376 IPC. In these matters the facts were akin to the present case, parties were known to each other, FIR was registered u/s 376 IPC on account of misunderstandings, parties subsequently arrived at an amicable settlement, and they were married to each other.

17. The law thus on this subject is well settled. In the present case the facts are peculiar in nature. The parties were admittedly known to each other and in a relationship. The parties allegedly got married on 27.04.2022 prior to the registration of the FIR which is stated to have been lodged owing to misunderstandings that arose between the parties. Thereafter, the petitioner and respondent No.2/complainant out of their own volition married each other with the blessings of their family members on 13.10.2022 and are living happily ever since. The said marriage has also been registered and

verified. The affidavit of the respondent No. 2/complainant in support of the contentions raised by the petitioner is also on record. The parties are present in person and have been duly identified by the IO. Respondent No.2/complainant states that the present FIR arose due to some misunderstandings between the parties, which now stands resolved. She states that she does not wish to pursue the present complaint on account of marriage between her and the petitioner. She states that now she is living happily with the petitioner. She states that she has no objection if the present FIR and the consequent proceedings are quashed.

18. This court while following the above settled law on the subject, considers that even though in cases of rape and other such heinous offences, ordinarily the FIR should not be quashed. However, the Courts can exercise its inherent power to quash the proceedings on account of peculiar facts in order to secure the ends of justice and to prevent abuse of the process of the Court. Taking into account that the petitioner and respondent No.2/complainant have married each other and are living together in a happy and peaceful matrimony and the fact that the respondent No.2/complainant herself is taking the initiative and stating that she does not wish to pursue the present complaint on account of the amicable settlement arrived between the parties. This Court considers that continuation of the present proceedings will serve no useful purpose as the chances of conviction would also be remote given the parties have settled, are married and do not wish to pursue the complaint.

19. 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. 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. preserves the inherent powers of the High Court to prevent an abuse of the process of any 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 such inherent power.

20. In view of the above the present FIR No. 150/22 dated 15.05.2022 registered under sections 376 IPC at PS Rajinder Nagar, Chargesheet under sections 376/323 IPC and all other consequent proceedings emanating therefrom pending before learned ASJ, THC, in case SC No. 565/2022 are quashed.

21. The present petition along with the pending application is disposed of.

MARCH 15, 2023/Pallavi.. **DINESH KUMAR SHARMA, J**