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

+ **CRL.M.C. 7061/2022 & CRL.M.A. 27290/2022**

ABHAY KUMAR

..... Petitioner

Through: Mr. Madhukar Pandey and Mr.
Siddhrath Singh, Advs.

versus

STATE NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Hemant Mehla, APP for State
and SI Sarita, PS Maurice Nagar.

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Date of Decision: 19.07.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.C. 7061/2022

1. The present petition has been filed seeking quashing of case FIR No. 017/18, Dated 31.01.2018, under Sections 354A/354D & Section 12 of POCSO Act, 2012, PS Maurice Nagar, New Delhi.
2. Briefly stating, the present FIR was registered on the complaint of the victim/Respondent no. 2 who was enrolled in B.A. (Programme) at Daulat Ram College, University of Delhi, and was in her 2nd Semester when she was being taught by the Petitioner (Adhoc Lecturer). The complainant alleged that the Petitioner used to stare and wink at her during the lectures. Upon finding Respondent No.2 alone in college, the petitioner used to approach



her for conversation. It is further alleged that on 22.01.2018 the Petitioner met the victim at the canteen and on seeing her, the Petitioner made lewd remarks for Respondent No. 2 and touched her with wrong intentions. Further, it is alleged that on 25.01.2018 the Petitioner during the lecture in front of the whole class, he again made lewd remarks and hearing them she got nervous. Respondent No. 2 further alleged that the Petitioner from his phone No. 9818813621 used to message her on WhatsApp at her Phone No. 7027865459 and asked her to meet alone and to accompany him for tea/coffee. Furthermore, Respondent No. 2 alleged that when she used to leave from college, Petitioner used to invite her to meet him to which she used to refuse, and Petitioner in return threatened to fail her in internal exams. Furthermore, it has been alleged that the Petitioner stalked Respondent no. 2 with evil intentions to the exit gate of the college or sometimes in the canteen after the Petitioner's lecture used to get over.

3. It is submitted that the petitioner was arrested on 05.02.2018 and has remained in custody for around 50 days. The charge-sheet was filed under Section 354A/354D IPC and Section 8/10/12 of the POCSO Act on 12.03.2018.
4. It is submitted that during the pendency of the proceedings before the trial Court, the Petitioner and Respondent No. 2 signed a Settlement Deed dated 17.12.2022 in the presence of the father of the Respondent No. 2. The Petitioner has tendered unconditional



apologies to the Respondent No. 2 for any of his acts or omissions which were unintentional and inadvertent in nature and the Respondent No. 2 has agreed to forgive the Petitioner on her own free will without any threat, fear, force, or coercion and has condoned all his acts and omissions and as such Respondent No. 2 does not want to continue any further litigation and is willing to lead her normal peaceful life.

5. It is submitted that Respondent No. 2 now has no grievance of any kind against the Petitioner. The parties have resolved their disputes amicably and a settlement has been effected between the Petitioner and the Complainant/Respondent No. 2 herein on the following terms and conditions:

“1. That the parties have settled all issues and disputes between them (who are witness to this Deed of Settlement and undertake to abide by it) and the Second Party tenders unconditional/unqualified apologies to the First Party for any/all of his acts or omissions causing discomfort to the First Party, and the First Party is forgiving the Second Party on her own free will without any threat, force and coercion and condones all his acts and omissions and as such the First Party doesn't want to litigate any further and willing to lead her a normal peaceful life and pursue her academic/professional career.

2. The First Party further affirms that she has forgiven the Second Party keeping in view the fact that the Second Party is a man of letters being Political Science Ph.D. and has otherwise never harbored any ill will against any of his students including the First Party

3. The Second Party affirms that he has clean



antecedents except the accusation in the present FIR and his conduct was never hostile in nature to anyone in past.

4. The Parties to this Deed affirms that contents of this Settlement Deed are mutual and as such the First Party want the present proceedings in Chargesheet dated 12.03.2018 in case FIR No. 017/18, dated 31.01.2018, U/s 354A/354D & Section 8/10/12 of POCSO Act, 2012, PS Maurice Nagar, New Delhi presently pending before the Court of Shri Muneesh Garg, Spl. Judge (POCSO ACT), ASJ-01, Central District, Tis Hazari Courts, Delhi and the proceedings thereunder to be quashed as the allegations are private in nature and on account of having already been condoned by the First Party.

5. The First Party further submits that she is a student and has a goal of her life and as the First Party doesn't want to continue the litigation any further against the Second Party.

6. The parties will not attempt to intimidate each other directly or indirectly in any manner in future.

7. That both the Parties undertake to assist and co-operate each with other including signing of affidavits and appearing before the Hon'ble Delhi High Court for getting the Chargesheet dated 12.03.2018 in case FIR No. 017/18, dated 31.01.2018, U/s 354A/354D & Section 8/10/12 of POCSO Act, 2012, PS Maurice Nagar, New Delhi presently pending before the Court of Shri Muneesh Garg, Spl. Judge (POCSO ACT), ASJ-01, Central District, Tis Hazari Courts, Delhi and the proceedings thereunder quashed, so that both the parties can get on with their future lives.

8. That it is put on record and reconfirmed by the parties to this settlement, that the mutual consent of the



parties is voluntary and out of their own accord to give no objection/swear affidavit/appear and depose in Court to support prayer/petition for quashing of Chargesheet dated 12.03.2018 in case FIR No. 017/18, dated 31.01.2018, U/s 354A/354D & Section 8/10/ 12 of POCSO Act, 2012, PS Maurice Nagar, New Delhi presently pending before the Court of Shri Muneesh Garg, Spl. Judge (POCSO ACT), ASJ-01, Central District, Tis Hazari Courts, Delhi and the proceedings thereunder and has not been obtained by force, fraud or undue influence.

9. It has been represented by both the Parties that they have not filed any other case or complaints against each other.

10. That all terms of the present Deed and the history between the parties shall remain confidential at all points of time.

11. That abiding by the various terms of this Deed is sacrosanct and both the Parties shall abide by the letter and spirit of the terms of this Deed after its signing.

12. That the present Deed is being signed by the parties after reading and understanding the same with their own free will and consent and without any threat, undue pressure or coercion or force or undue influence from any side.”

6. Both parties are present in court and have duly been identified by the IO. Respondent No. 2 submits that she has entered the settlement voluntarily without any fear, force, or coercion. She has no objection if FIR No. 017/18, Dated 31.01.2018, under Sections 354A/354D & Section 12 of POCSO Act, 2012, PS Maurice



Nagar, New Delhi and all the consequential proceedings are quashed.

7. The Hon'ble Supreme Court in **Saju P.R. v. State of Kerala**, Criminal Appeal No.1740/2019 *inter-alia* held that:

“Considering the peculiar facts of the present case, the affidavit filed by the complainant and other materials on record, in our opinion, the relief claimed by the appellant to quash the criminal proceedings pending against him deserves to be acceded to for doing complete justice to the parties concerned.”

8. The Kerala High Court in **Vishnu v. State of Kerala &Anr. and other connected matters**, 2022 SCC Online Ker 4361 *inter-alia* held that:

“16. From the precedents and law on the subject enunciated above, it can be concluded that though the High Court should not normally interfere with the investigation/criminal proceedings involving sexual offences against women and children only on the ground of settlement, it is not completely foreclosed in exercising its extraordinary power under section 482 of Cr. P.C or Article 226 of the Constitution of India to quash such proceedings in ‘extraordinary circumstances’ to do complete justice to the parties. However, it is always a difficult task for the Court to identify the so-called ‘extraordinary circumstance’. The interest of the victim and the societal interest often clash, making the job of Courts more complex. The issue must be considered from different perspectives, the pros and cons must be weighed, and a rational view must be taken. A holistic approach is called for in identifying the cases fit for compromise.”

9. It is a settled law that the inherent powers under section 482 of the



Code are required to be exercised to secure the ends of justice or to prevent abuse of the process of any court. Further, the High Court can quash non-compoundable offences after considering the nature of the offence, gravity of case and the amicable settlement between the concerned parties. The present case is extremely peculiar in nature. The petitioner was the teacher of the complainant. The petitioner is stated to have retired. The complainant is in the process of making her life. The petitioner has also remained in custody for fifty days. The complainant has now forgiven the petitioner.

10. Taking into account the totality of facts and circumstances of the case and for doing complete justice to the future of Respondent No. 2, this court considers that the parties have entered into an amicable settlement out of their own free will, without any fear, force or coercion and they should be given an opportunity to lead their lives peacefully. No purpose will be served in continuing with the trial.
11. In view of the above, FIR No. 017/18, Dated 31.01.2018, under Sections 354A/354D & Section 12 of POCSO Act, 2012, PS Maurice Nagar, New Delhi, and all the other proceedings emanating therefrom are quashed.

DINESH KUMAR SHARMA, J

JULY 19, 2023/AR

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