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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 360/2024**

SH VIPIN

..... Petitioner
Through: Mr.Pawan Prakash Pathak,
Ms.Neha Gund, Mr.Bhartosh
Sharma, Mr.Sumit, Advs. with
petitioner.

versus

THE STATE GOVT OF NCT OF DELHI & ORS.

..... Respondents
Through: Ms.Priyanka Dalal, APP with
WSI Sumita Sehrawat.
Respondent nos.2 and 3 in
person.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **26.04.2024**

CRL.M.A. 1427/2024 (Exemption)

1. Allowed, subject to all just exceptions.

CRL.M.C. 360/2024

2. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), seeking quashing of FIR No.0171/2022 registered at Police Station: Patel Nagar, Central-District, Delhi, originally under Section 363 of the Indian Penal Code, 1860 (in short, 'IPC'), while later charges under Section 376/366 of the IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (in short, 'POCSO Act') were added in the Charge Sheet, along with all other proceedings arising therefrom.



3. The above FIR was registered on the complaint of the respondent no.3 stating that his minor daughter, aged around 16 years, had gone out to the market for shopping and has not returned and could not be traced in spite of search.
4. Later, the respondent no.2 filed a Writ Petition before the High Court of Judicature at Allahabad, seeking protection, which was granted vide its order dated 08.02.2022.
5. It is claimed that the petitioner and the respondent no.2 married each other in February, 2022.
6. The petitioner was arrested on 15.09.2022.
7. In her statement recorded on 15.09.2022 under Section 164 of the Cr.P.C., the respondent no.2 stated that she had gone with the petitioner on her own freewill and volition. The petitioner and respondent no.2 have also been blessed with a child.
8. The present petition is supported by the affidavit of the respondent nos.2 and 3, who pray that the FIR be quashed.
9. The respondent no.2 and 3 are also present in person in Court and have been duly identified by the Investigating Officer (IO). They re-affirm the above prayer and seek the quashing of the present FIR and the consequential proceedings arising therefrom.
10. The learned APP, however, submits that the respondent no.2 was admittedly a minor on the date when she left the house and even on the date of her alleged marriage. She submits that therefore, the FIR cannot be quashed only on the basis of the consent of the parties. She submits that the consent of the minor, in any case, would be immaterial.



11. I have considered the submissions of the parties and perused the records.

12. This Court, vide order dated 05.01.2024 passed in CRL.M.C. 4168/2022, a petition arising out of almost similar facts and raising similar issue, had requested Mr.Vikas Pahwa, the learned senior counsel, to act as an *Amicus Curiae*.

13. By an order passed today, I have quashed the FIR that was in challenge in CRL.M.C. 4168/2022. The said judgment is fully applicable to the facts of the present case as well.

14. Guided by the above referred judgement and taking into account the fact that the respondent no.2 was aged around 16 years when she, out of her own free will and volition (though such will and consent is not recognised in law), had gone with the petitioner; they have married each other; they have been blessed with a child; and the respondent no.2 is now admittedly a major, and has expressed a request that the FIR be quashed, I am of the view that no useful purpose shall be served in continuing with the proceedings of the present FIR. Such proceedings would rather be an unnecessary burden on the State exchequer and act as a hindrance in the happy married life of the petitioner and the respondent no.2. It would amount to punishing the respondent no.2 as well as her child. Therefore, in the interest of justice, the FIR in question deserves to be quashed.

15. Accordingly, the petition is allowed. FIR No. 0171/2022 registered at Police Station: Patel Nagar, Central-District, Delhi under Section 363 IPC, wherein later the Charge Sheet has been filed alleging offence under Sections 376/366 of the IPC and Section 6 of



the POCSO Act as well, and all consequential proceedings emanating therefrom against the petitioner, are quashed.

NAVIN CHAWLA, J

APRIL 26, 2024/Arya/ss

Click here to check corrigendum, if any