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

+ **CRL.M.C. 1684/2024**

MOHD.TANBIR

..... Petitioner

Through: Mr. Vikram Singh, Mr. Deepak Sharma, Mr. Sandeep Arya, Mr. Bhanu Pant and Ms. Vijoya Tandon, Advs.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Raghuvinder Verma, APP for State with SI Jaspreet Pannu, PS. Nabi Karim.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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22.03.2024

1. The present petition has been filed under Section 482 CrPC seeking quashing of FIR No.131/2017 under Section 363 IPC (subsequently charge sheet was filed under Sections 363/376 IPC and Section 6 of POCSO Act) registered at Police Station Nabi Karim and all consequential proceedings emanating therefrom on the ground that the parties are now married and have two minor children.
2. Notice was issued in the present petition on 28.02.2024.
3. The petitioner (husband), as well as, respondent no. 2 (wife) are present in the Court and they have been identified by their respective



counsel and by the Investigating Officer SI Jaspreet Pannu, PS. Nabi Karim.

4. The learned counsel for the petitioner submits that the petitioner, as well as, the victim were in consensual relationship, however, the family of the girl was against the said relationship, this led to the registration of the aforesaid FIR in the year 2017.

5. However, during the pendency of the proceedings, the petitioner and the respondent no.2 got married on 26.05.2017. It is not in dispute that the prosecutrix was above 17 years of age at the time of marriage. The learned counsel for the petitioner submits that the marriage at the age of 17 years is legal and valid in accordance with the Muslim Law, which position is not in dispute.

6. Reliance has been placed by the learned counsel on the decision of a Co-ordinate Bench of this Court in ***Prem Kumar vs. The State and Ors., 2024 SCC OnLine Del 628*** passed in ***W.P.(CRL) 2869/2023*** wherein the FIR under Section 376 IPC and Section 6 of the POCSO Act was quashed as the accused and the victim got married subsequent to the registration of the FIR. The relevant part of the decision reads thus:-

*“...10. No doubt Section 376 IPC and Section 6 of the POCSO Act are not compoundable under Section 320 Cr.P.C., however, as explained by Hon'ble Supreme Court in **Gian Singh's, Narinder Singh's, Parbatbhai Aahir's and Laxmi Narayan's cases (supra)**, the authority of the High Court under Section 482 Cr.P.C. remains unrestricted by the provisions of Section 320 Cr.P.C. It can use its inherent powers under Section 482 Cr.P.C. to quash FIRs and criminal proceedings if deemed necessary based on the specific facts and circumstances of the case, either to serve the interests of justice or to prevent the misuse of the court process. This power can even be exercised in cases where the offenses are non-compoundable, but the parties have reached a settlement among themselves.*”



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12. In the present case, the parties have already married each other, as stated by the learned counsel for the petitioner. Attention of this Court has been drawn to the Affidavit-cum-No-objection given by respondent no.3, where she has stated that she has no objection in case the FIR is quashed. One cannot lose sight of the fact that both the petitioner and the respondent no.3 are happily residing together with their two minor children and are considering to restart their lives together with a new beginning. This Court cannot be a silent spectator to or turn its back on the distressed family. If the impugned FIR is not quashed, the petitioner will have to face incarceration for at least 10 years which will negatively impact their lives, including their two minor children. The mistake or blunder, which otherwise constitutes an offence, has been committed due to immature act and uncontrolled emotions of two persons, out of whom, one was a minor, on the verge of majority, at the time of incident as claimed by the state. ”...

7. The present case is squarely covered by the aforesaid decision of a coordinate Bench of this Court.

8. The respondent no.2, who is present in Court, affirms the factum of her marriage with the petitioner no.1 and she also affirms that the couple has now been blessed with two children, who are aged about 08 months and three years.

9. The respondent no.2, on a query put by the Court, states that she has no objection in case the FIR is quashed.

10. It is, thus, in the interest of justice that the present FIR and all the other proceedings emanating therefrom be quashed.

11. Consequently, the petition is allowed and the FIR No.131/2017 under Section 363 IPC (subsequently charge sheet was filed under Sections 363/376 IPC and Section 6 of POCSO Act) registered at Police Station Nabi



Karim alongwith all other proceedings emanating therefrom, is quashed.

12. The petition stands disposed of in the above terms.

13. Order be uploaded on the website of this court.

VIKAS MAHAJAN, J

MARCH 22, 2024/dss