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

+ **W.P.(CRL) 915/2024**

FAIZAN

.....Petitioner

Through: Mohd. Shariq, Mohd. Javed,
Mr. Azad Hussain & Mohd. Rauf,
and Mr. Prakash Gangwani,
Advocates.

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr Sanjay Lao, Standing Counsel for
the State with Mr. Abhinav Kumar
Arya, Advocate with SI Kirti Singh,
PS Welcome.
Mr. Mohd. Javed, Advocate for R-2
with R-2 in person

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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29.07.2024

1. This petition is filed seeking quashing of FIR No. 70/2024 registered under section 376 IPC and Section 6 POCSO Act registered at PS Welcome.
2. Counsel for petitioner points out that the FIR was registered on the basis of information received from hospital that respondent no.2/ prosecutrix was pregnant and was 16 years of age at that time. He further contends that the FIR itself states that prosecutrix had known the petitioner for the last one year and established physical relations. When she had stomach-ache and visited hospital, she became aware of her pregnancy. Accordingly, the FIR was registered on the information by the hospital.
3. Respondent no.2/ prosecutrix, who is present in the Court, and is duly



identified by the IO, states that she married the petitioner on 24th February 2024. It is confirmed by the affidavit filed by mother of the respondent no.2/ prosecutrix that the marriage was solemnised and prosecutrix never wished to pursue the FIR in question.

4. Counsel for petitioner points out to principles under the Mohammedan Law which permits petitioner under age of 18, post puberty to get married. In this regard, he points out to decision of Hon'ble High Court of Punjab & Haryana, Chandigarh in ***Gulam Deen & Anr. v. State of Punjab & Ors.***, in CRWP 5744/2022 where the judgments in this regard have been noted, particularly in ***Yunus Khan v. State of Haryana & Ors.*** (2014) 3 RCR (Criminal) 518 citing Article 195 of Principles of Mohammedan Law by Mulla.

5. This has also been recognized by decision of this Court in ***Fija & Anr v. State Govt of NCT of Delhi & Ors***, 2022: DHC: 3166, which further relied upon ***Rukshana and Another v. Govt. of NCT of Delhi and Others***, 2007 SCC Online Del 2059

6. Petitioner and respondent no.2 are present in the Court, duly identified by the IO and counsel and confirm that they were in a relationship, and are married, and want to live happily with each other; the prosecutrix does not wish to pursue this FIR.

7. In light of the above facts and circumstances, and considering that chances of conviction of the petitioner being remote and bleak, there is no use continuing with proceedings of the present FIR as it would be a misuse of the process of the Court and an unnecessary burden on the State exchequer. Accordingly, the petition is allowed. Consequently, the FIR No. 70/2024 registered under section 376 IPC and Section 6 POCSO Act registered at PS Welcome and proceedings emanating therefrom are



quashed.

8. Accordingly, the petition is disposed of along with the pending applications, if any.
9. Order be uploaded on the website of this Court.

JULY 29, 2024/sm

ANISH DAYAL, J