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

+ **CRL.M.C. 2862/2024**

BIPIN KUMAR MISTREE Petitioner

Through: Mr.R.S.Mishra,
Mr.K.K.Sharma, Ms.Deepti
Mishra, Mr.Anand Mishra,
Ms.Stuti Joshi, Adv.

versus

THE STATE GNCT OF DELHI AND ORS Respondents

Through: Mr.Shoaib Haider, APP with SI
Vinod Kapoor.
R-2 and 3 are present.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **09.04.2024**

CRL.M.A. 10895/2024(exemption)

1. Allowed, subject to all just exceptions.

CRL.M.C. 2862/2024

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.32/2020 registered at Police Station: Sagar Pur, South West District, Delhi under Sections 363/366/376 of the Indian Penal Code, 1860 (in short, 'IPC') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (in short, 'POCSO Act'), along with all other proceedings arising therefrom, on the basis of a settlement.

3. Issue notice.

4. Notice is accepted by Mr.Shoaib Haider, learned APP for the State.



5. The learned counsel for the petitioner submits that the subject FIR arose out of the petty issues and temperamental differences between the parties with regard to the relationship between the petitioner and the respondent no.2.

6. The learned counsel for the petitioner submits that the parties have amicably settled all their *inter se* disputes and the petitioner and the respondent no.2 are now married and are happily living together and are also blessed with a male child.

7. The respondent nos.2 and 3, who are personally present in Court and have been duly identified by the Investigating Officer (IO), reaffirm that they have settled all the disputes with the petitioner out of their own free will and without any coercion and that the respondent no.2 is married and living together happily with the petitioner. They submit that they have no objection if the present FIR is quashed.

8. I have perused the contents of the FIR and also the settlement between the parties.

9. In ***Kapil Gupta v. State (NCT of Delhi)***, 2022 SCC OnLine SC 1030, the Supreme Court while considering a case of quashing an FIR registered under Section 376 of the IPC, has held as under:

“13. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if



proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

14. *...However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.*

15. *The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent No. 2 is a young lady of 23 years. She feels that going through trial in one case, where she is a complainant and in the other case, wherein she is the accused would rob the prime of her youth. She feels that if she is made to face the trial rather than getting any relief, she would be faced with agony of undergoing the trial.*

16. *In both the cases, though the charge sheets have been filed, the charges are yet to be framed and as such, the trial has not yet commenced. It is further to be noted that since the respondent No. 2 herself is not supporting the prosecution case, even if the criminal trial is permitted to go ahead, it will end in nothing else than an acquittal. If the request of the parties is denied, it will be amounting to only adding one more criminal case to the already overburdened criminal courts.*

17. *In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent No. 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.”*



10. A Coordinate bench of this court in the judgement dated 22.05.2023 in CrI.M.C. 2153/2021, titled as ***Vijay Kumar v. The State Govt. of NCT of Delhi & Anr.***, has held as under:

“6. Even though the judicial principles state that High Court must show restraint in quashing the FIR under section 6 POCSO, in the instant case, respondent No. 2 is in love with petitioner and has married him out of her own free will and choice.

7. The respondent No. 2 is a major now and wishes to stay with the petitioner as his wife along with their minor child. In this case, if the FIR is not quashed, three lives will be ruined. I am of the view that the minor child must get the due love and affection and upbringing from both the parents.”

11. Keeping in view the fact that the disputes between the parties arose out of the relationship between the petitioner and the respondent no.2, who are now stated to be married and are happily living together and the fact that the parties have amicably settled their *inter se* disputes, I find that no useful purpose shall be served in continuing with the proceedings of the present FIR as the chances of its success will be rather minuscule and it would rather create further acrimony between the parties and will be an unnecessary burden on the State exchequer. The continuation of the proceedings would rather act as a hindrance in the happy married life of the petitioner and the respondent no.2.

12. Guided by the principles enunciated by the Supreme Court in its judgments in ***Kapil Gupta*** (Supra), ***Vijay Kumar*** (Supra), ***Gian Singh v. State of Punjab***, (2012) 10 SCC 303; ***Parbatbhai Aahir @ Parbatbhai Bhimsinbhai Karmur & Ors. v. State of Gujarat & Ors.***



(2017) 9 SCC 641 and *State of Haryana & Ors. v. Bhajan Lal & Ors.* 1992 Supp (1) SCC 335, this Court deems it appropriate, in the interest of justice, to exercise its inherent powers under Section 482 of the Cr.P.C. to quash the FIR and all the proceedings emanating therefrom.

13. Accordingly, the petition is allowed. FIR No.32/2020 registered at Police Station: Sagar Pur, South West District, Delhi under Sections 363/366/376 of the IPC and Section 6 of the POCSO Act, and all consequential proceedings emanating therefrom against the petitioner are quashed.

NAVIN CHAWLA, J

APRIL 9, 2024
RN/AS

Click here to check corrigendum, if any