



2024:DHC:7183



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

% **Reserved on: 20th August, 2024**
Pronounced on: 18th September, 2024

+ **CRL.M.C. 2960/2024 & CRL.M.A. 11344/2024**

RANJEET SINGHPetitioner

Through: **Mr. Sanjay Sharma and Mr. Anshul Sharma, Advocates.**

versus

STATE NCT OF DELHI AND ANR.Respondents

Through: **Mr. Amit Ahlawat, APP for State with W/SI Usha Yadav, PS Mehrauli.**

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

1. This petition seeks quashing of FIR No. 220/2024 dated 22nd March 2024 under Section 376/506 of the Indian Penal Code, 1860 ('**IPC**') registered at PS Mehrauli and proceedings emanating therefrom.

Factual Background

2. The FIR was registered on the basis of a complaint by respondent no.2 that the accused/petitioner used to drive a bus from Rajasthan and come to her



house and did a “*wrong act with her*”, sent an SMS from her phone to his phone and then started threatening her. Later, he came to the house and did a “*wrong act with her*” and seduced her, took her to the hotel where he clicked her photos and started threatening her that if she does not have a physical relationship, he would make her photos viral.

3. As per the allegations of the prosecutrix, the accused/petitioner had sexual relations with her for the first time in 2020, continued to threaten her for two years and took several photos against her will. She further alleged that he slept with her in 2022 and beat her in front of her mother.

4. Further, she alleged that he had taken her to a hotel in Saket in October, 2022. On this basis, the investigation was commenced, counselling was done by the DCW Counsellor of the prosecutrix and the FIR was registered.

5. On 29th March, 2024, respondent no.2 in a written statement along with a notarised affidavit stated that the relationship between her and the accused/petitioner was consensual and that the accused/petitioner has never forced her to make physical relations with her and never taken any photos of her in a compromising position and she did not want to proceed with the criminal proceedings. The handwritten note in Hindi and the affidavit also in Hindi were appended along with the petition.

6. On 15th May, 2024, this Court noted that the prosecutrix was present in Court and on query raised by the Court, she stated that she does not want to take any action in the present petition.



7. APP for State, however, opposed the quashing on the ground that the offence under Section 376 IPC was made out and since there was societal impact, the FIR could not be quashed on the basis of '*No Objection*' of the prosecutrix.

Submission of Parties

8. The petitioner's counsel relied upon the decision of this Court in ***Bitu Yadav @ Vikas Yadav v. State (NCT of Delhi) and Anr.***, (2020) SCC OnLine Del 1247.

9. APP for State, however, noting that the Supreme Court in ***Kapil Gupta v State of NCT of Delhi*** (2022)15 SCC 44, stated that the FIR under Section 376 IPC can be quashed, but the previous decision of the Supreme Court in ***State of M.P. v Madanlal***, (2015) 7 SCC 681 was not taken into consideration, where the view was that a file under 376 IPC cannot be quashed.

10. Counsel for the petitioner, however, submitted that the facts and circumstances of ***Madanlal*** (*supra*) and ***Kapil Gupta*** (*supra*) are completely different.

11. In ***Madanlal*** (*supra*), the Trial Court had sentenced the accused under Section 376 (2) (f) and Section 511 IPC. Thereafter, the accused moved to the High Court that the Trial Court did not adjudicate the matter properly, and pleaded alternatively that the parties had arrived at a compromise at that stage. The question before the Supreme Court was whether the High Court rightly



reduced the sentence for offences under Section 376 IPC to sentence under Section 354 IPC.

12. In *Kapil Gupta (supra)*, at the behest of the prosecutrix, an FIR was lodged under Section 376 IPC and the accused also got an FIR lodged against the prosecutrix for extortion. Charge sheet was filed in both the FIRs and the parties entered into an amicable settlement, upon which the High Court rejected the same and the SLP was filed before the Supreme Court.

13. It was, therefore, contended that in *Madanlal (supra)*, the Trial Court had already framed the charge and convicted the accused person and thereafter the appeal was made to the High Court. Whereas in *Kapil Gupta (supra)* both parties had achieved an amicable settlement. Moreover, in *Madanlal (supra)* offence was committed on a 7-year-old girl and compromise submission came at the stage of the High Court when the accused was already convicted for the offence. Therefore, compromise was not considered appropriate considering the circumstances.

14. In *Kapil Gupta (supra)*, the prosecutrix herself stated that the relationship between her and the accused was mutual and only when she came to know that the accused was in another relationship, she decided to set the record straight. Accordingly, petitioner's counsel stated that the facts of this matter are similar to those of *Kapil Gupta (supra)*.

15. Counsel for the petitioner also relied upon the decision of the Supreme Court in *Ajeet Singh v State of Uttar Pradesh* (2024) 2 SCC 422 and *Suresh*



Garodia v. State of Assam, 2024 SCC OnLine SC 38, where a criminal case registered under Section 376, 506 of IPC was quashed.

16. Further reliance was placed on decision of this Court in *Lalit Kumar Vats v. State of NCT of Delhi and Anr.* 2020:DHC:3473 where the Court was inclined to quash the FIR considering that *quietus* was sought to be given by the prosecution on the basis of affidavits before the Court.

17. Reliance was placed on decision in *Mithun Kori v State of NCT* in W.P.(CRL) 1952/2023 where a case under Section 376, 363 IPC was also quashed. Further reliance was also placed on *Haji Iqbal alias Bala Through S.P.O.A v. State of U.P and Ors.* 2023:INSC:686 decision of the Supreme Court.

18. Even otherwise, it was argued that, the FIR was registered by the complainant in 2024 based on the incidents which took place in 2020 and 2022. Therefore, the delay in the registration of FIR would dilute the case of the complainant/respondent no 2.

19. The statement recorded under Section 164 of the Code of Criminal Procedure, 1973 ('C.r.P.C'). of the prosecutrix on the very next day of the registration of the FIR was very different to the FIR. In the FIR, there is no mention that the prosecutrix was suffering from tuberculosis and no mention of the accused person giving any kind of drug to the prosecutrix.



20. In 2020, the prosecutrix was 21 years of age whereas the statement made by the prosecutrix that she was raped at the age of 17 years was in complete contradiction and was an attempt to implicate the accused/petitioner for offences under the Protection of Children from Sexual Offences Act, 2012.

Analysis

21. The Court has considered the submissions of the counsel for the petitioner and that of the APP for the State. It is quite clear that the FIR was registered in March 2024, while a perusal of the FIR indicates that the allegations relate back to 2020 and 2022.

22. Notwithstanding that the delay in registering an FIR can be disregarded in certain circumstances, the allegations itself are vague in their particulars, that the accused/petitioner did a “*wrong act*” with her but no particular date is mentioned for the said incident. Thereafter, an allegation has been made that he seduced her and took her to the hotel and clicked a photo, and no specific date and details of the place of incidence has been given. A general allegation has been made that he made sexual relationship for the first time in 2020 and has been threatening her for two years. The other allegation relates to October 2022 where she states that he took her to a “Hotel in Saket”. However, no specific details of that date have been given.

23. This is in context of the fact that the respondent No.2/complainant on 29th March, 2024 gave a handwritten statement, where she stated that the



incident happened was consensual in nature and under no apprehension of threat or fear. According to her, the FIR arose out of a dispute between them, due to some dissonance which had arisen, and she does not want any further proceedings against him and wants to close complete proceedings in this regard. She also gave a notarised affidavit in this regard dated 29th March, 2024. Further, on 15th May, 2024, the prosecutrix was present in Court and had been queried by the Court and stated that she does not want any action against the accused/petitioner.

24. The objection by the APP for the State was only basis the fact that the offence alleged was under Section 376 IPC and, therefore, cannot be quashed. In this regard, it may be stated that it cannot be taken as a cardinal rule that despite an exceptional situation where an FIR has been registered on the basis of dissonance between consenting couples, alleging an offence under Section 376 IPC, the Court ought to refrain from exercise of inherent powers under Section 482 Cr.P.C. and quash the FIR. In this regard, it would be useful to advert to decisions cited by the petitioner:

- (i) In *Kapil Gupta v. State of NCT of Delhi* (*supra*), the Supreme Court was dealing with an allegation under Section 376 IPC and a subsequent amicable settlement. The petition for quashing had been dismissed by the High Court and the matter was assessed by the Supreme Court. The State had raised an objection whether the present crime was heinous and was against the society at large and the Court should not permit quashing. The Court took steps to



find out whether the consent for putting an end to the proceeding by the prosecutrix is as per her will or under duress or coercion. Since no one had appeared for the prosecutrix, the Court appointed an *Amicus Curiae* who had a conversation with respondent No.2 and confirmed that the respondent No.2 had given her voluntary statement without any coercion or duress. The Court noted the decision in ***Narender Singh v. State of Punjab***, (2014) 6 SCC 466 which formed the basis of the objection by the State and in this regard the Court noted as under:

“12. 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.

13. The Court has further held that it is also relevant to consider as to what is the stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the



proceedings. 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.

14. The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent 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.

15. 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 Respondent 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.

16. 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 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.”

- (ii) In ***Ajeet Singh*** (*supra*), the Court though dealing with a situation of solemnisation of marriage of accused and prosecutrix post an allegation under Section 376 IPC, on a false promise of marriage, the Court noted that the relationship was a consensual relationship which culminated in marriage and, therefore, “*no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the appellant*”. It was also stated that serial no. 5 of the parameters in ***State of Haryana & Anr. v. Bhajan Lal & Anr.*** (1992) Supp (1) SCC 335 would apply.
- (iii) In ***Suresh Garodia*** (*supra*), the Supreme Court was dealing with an allegation under Section 376 IPC where there was an extraordinary delay in lodging the FIR. The Court in relying upon the decision in ***State of Haryana & Anr. v. Bhajan Lal & Anr.*** (*supra*) quashed the proceedings.
- (iv) This Court in ***Lalit Kumar*** (*supra*) where the prosecutrix appeared in Court and stated that the FIR was lodged out of anger since she and the petitioner had an altercation and also filed an affidavit, the Court considered it fit to quash the said FIR.



- (v) In ***Mithun Kori*** (*supra*), allegations were under Section 376 IPC and Section 6 of the POCSO Act, where the parties were living amicably together and resolved their differences and got married post the allegations. The Court considered it fit to quash the FIR.
- (vi) In ***Bitu Yadav @ Vikas Yadav*** (*supra*) of the Coordinate Bench of this Court, the FIR was quashed and the prosecutrix having preferred an affidavit before the Court stating that she had made the complaint due to some misunderstanding and wanted to put a *quietus* to the matter.
- (vii) Reference was also made to Supreme Court's decision in ***Haji Iqbal alia Bala*** (*supra*) where the Court notes as under, in relation to quashing of FIRs in exercising inherent powers under Section 482 Cr.P.C.:

“14. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to



proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

(emphasis added)



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(viii) The APP's objection that the decision in *Madanlal* (*supra*) was not taken into account in *Kapil Gupta* (*supra*) may not be relevant, considering *Madanlal* (*supra*) was in completely different circumstances, post-conviction.

25. In these facts and circumstances, considering the statement of the prosecutrix on affidavit, as well as statement before the Court, as also the non-specificity of the allegations made in the FIR relating to incidence which were two years prior to the said registration of the FIR, it is apparent that the FIR had been registered arising out of an altercation between the prosecutrix and the petitioner, as stated by her as well.

26. In these circumstances, the FIR No. 220/2024 registered at PS Mehrauli and proceedings thereunder stand quashed. Pending applications (if any) are rendered infructuous.

27. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

SEPTEMBER 18, 2024/MK/tk