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

+ **CRL.M.C. 3509/2024**

BRIJ MOHAN DAYAL & ORS.Petitioners

Through: Mr. Ravinder Kumar, Advocate.
P1 and P3 in person.
P1 and R2's minor sons.

versus

THE STATE GOVT. OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Utkarsh, APP for the State with
W/SI Shruti Dubey, P.S. Nabi Karim,
Delhi.
Md. Sahabuddin, Adv. for R2.
R2 in person.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

21.10.2024

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By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973, the petitioners, who are the husband and in-laws of the complainant/respondent No.2, seek quashing of case FIR No. 0287/2023 dated 12.06.2023 registered under sections 323/509 of the Indian Penal Code, 1860 ('IPC') and sections 10/12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act') at P.S.: Nabi Karim, Delhi.

2. Notice on this petition was issued on 03.05.2024; pursuant to which Status Report dated 01.07.2024 has been filed on behalf of the State.
3. The petition is premised on Memorandum of Understanding dated 18.03.2024 ('MoU'), whereby petitioner No.1 and respondent No. 2 have resolved the matter amicably.



4. The petition is also supported by affidavits of the petitioners and of respondent No. 2, alongwith proof of their IDs.
5. Respondent No.2 and Petitioners Nos. 1 and 3 are present in court. They have identified by the Investigating Officer ('I.O.') and by their respective counsel. Petitioner No.2 is stated to be indisposed today and is therefore unable to join the proceedings.
6. The court has interacted with respondent No.2. She states that there has been no divorce between her and petitioner No.1; and till 02 months ago she was residing with petitioner No.1 and her two sons, but has now moved-out by reason of the marital discord between the parties.
7. All that being said however, respondent No. 2 states categorically that she does not wish to pursue the subject FIR; and wants the proceedings in the subject FIR to be closed.
8. Mr. Utkarsh, learned APP appearing for the State points-out that a reading of the subject FIR would show, that respondent No. 2 has made extremely serious allegations against petitioner No.1 and petitioner No.2. Learned APP submits therefore, that it is quite incredible that after making such serious allegations, respondent No.2 has now left her two young sons with the very same person against whom she has alleged offences under the POCSO Act.
9. Learned APP submits, that this conduct on the part of respondent No. 2 suggests misuse and abuse of the stringent provisions of the POCSO Act and of the State machinery at the hands of respondent No.2.
10. In view of the submissions made by the learned APP, the court has interacted at some length with petitioner No.1 as well as his two sons,



who are also present in court. The minor sons have categorically said that they wish to continue to reside with their father *i.e.* petitioner No.1. Upon considering the matter holistically and in view of what has been stated by the two minor children, this court is of the view that it would be in the larger interests of the parties if further criminal proceedings in the case are closed.

11. As a sequitur to the above, and in line with the law laid down by the Supreme Court in *Gian Singh vs. State of Punjab & Anr.* reported as (2012) 10 SCC 303 as also in *Narinder Singh & Ors. vs. State of Punjab & Anr.* reported as (2014) 6 SCC 466, this court sees no reason why the subject FIR and all proceedings emanating therefrom should not be quashed. This court is of the view that in light of the settlement between the contesting parties, continuing with the subject FIR and all subsequent proceedings would be an exercise in futility and would not be conducive to peace and harmony between the parties.
12. Accordingly, case FIR No. 0287/2023 dated 12.06.2023 registered under sections 323/509 of the IPC and sections 10/12 of the POCSO Act at P.S.: Nabi Karim, Delhi is quashed. All proceedings arising therefrom also stand closed.
13. The petition stands disposed-of.
14. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

OCTOBER 21, 2024

V.Rawat