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

+ **CRL.M.C. 4301/2024**

ABHISHEK KUMAR

.....Petitioner

Through: Ms. Devyani, Advocate.

versus

THE STATE OF NCT OF DELHI AND ANR.Respondents

Through: Mr. Utkarsh, APP for the State with
SI Sheetal, P.S.: Swaroop Nagar.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

11.07.2024

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By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner seeks quashing of case FIR No. 0267/2023 dated 20.04.2023 registered under section 376 of the Indian Penal Code, 1860 ('IPC') and section 6 of the Protection of Children from Sexual Offence Act, 2012 ('POCSO Act') at P.S.: Swaroop Nagar, New Delhi ('subject FIR').

2. Ms. Devyani, learned counsel appearing for the petitioner submits, that the main counsel leading her in the matter is not available today.
3. However, since the petitioner as well as respondent No.2 are present in court today alongwith their 08-month old baby, this court considers it appropriate to proceed with the matter regardless.
4. The petitioner and respondent No.2 have been identified by the Investigating Officer ('I.O.') and by their counsel.



5. The court has interacted with respondent No.2. She informs the court that she was in a consensual relationship with the petitioner and that she had herself represented to him that she was 18 years of age. Respondent No.2 submits, that the subject FIR came to be registered at the instance of the doctors and on the basis of the MLC, since she was found pregnant while she was under-age.
6. It is observed that in her statement dated 21.04.2023 recorded under section 164 of Cr.P.C., respondent No.2 has candidly stated before the learned Metropolitan Magistrate that she had gotten married to the petitioner some 07 months ago, though without informing her family; and that she had informed the petitioner that she was 18 years of age. Respondent No.2 has further stated before the learned Magistrate that the petitioner and she have been living together as spouses and that she was already 04 months pregnant at the relevant time. Respondent No.2 further states, that she has not been coerced in any manner to live with the petitioner and that she wishes to reside with the petitioner of our own free will and volition, along with their baby.
7. The I.O. is present in court; and based on material available in the case-diary she submits that the date of birth of respondent No.2 is 07.03.2006; and that therefore at the time of commission of the alleged offence, respondent No. 2 was above 17 years of age while the petitioner was about 22 years old.
8. The petition is also supported by affidavits of the petitioners and of respondent No. 2, alongwith proofs of their I.D.s.
9. Mr. Utkarsh, learned APP appears for the State and submits, that in view of her statement under section 164 Cr.P.C. and the other



circumstances obtaining in the present case, the State does not oppose the quashing of the subject FIR and the proceedings arising therefrom.

10. Furthermore, the attention of the court is drawn to decisions taken in similar cases, involving similar circumstances by Co-ordinate Benches of this court in ***Sonu @ Sunil vs. State of NCT of Delhi & Ors.***¹ and ***Kundan & Anr. vs. State & Ors.***², in which the Co-ordinate Benches have considered it appropriate to quash criminal proceedings in such matters in the interests and for the welfare not only of the parties but also of the children born from the wedlock.
11. In the circumstances, in line with the law laid down by the Supreme Court in ***Gian Singh vs. State of Punjab & Anr.***³ as also in ***Narinder Singh & Ors. vs. State of Punjab & Anr.***⁴, 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 the stand taken by respondent No. 2 in her statement recorded under section 164 Cr.P.C.; the fact that respondent No. 2 was above 17 years of age at the relevant time; and that respondent No. 2 has been residing with the petitioner along with their 08-month old baby ever-since, 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.

¹ 2024 : DHC : 3583

² 2022 SCC OnLine Del 4809

³ (2012) 10 SCC 303

⁴ (2014) 6 SCC 466



12. Accordingly, FIR No. 0267/2023 dated 20.04.2023 registered under section 376 IPC and section 6 POCSO Act at P.S.: Swaroop Nagar, New Delhi is quashed. All proceedings arising therefrom also stand closed.
13. Petition stands disposed-of.
14. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JULY 11, 2024/ak