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

+ **CRL.M.C. 5304/2022 & CRL.M.A. 21102/2022**

RAHUL UPADHYAY

.....Petitioner

Through: Mr. Durgesh Singh (D/6564/2017),
Mr. Saurabh Upadhyay, Mr.Aakash
Yadav & Ms. Risha Gautam,
Advocates with Petitioner in person

versus

STATE GOVT OF NCT DELHI & ANR.

.....Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for
the State.
SI Sanjay (D-6836), PS Anand Parbat
Respondent No.2/Complainant in
person with Prosecutrix in person
(through video-conferencing)

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

30.08.2024

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1. The Petitioner has approached this Court for quashing FIR No.317/2020 dated 06.11.2020 registered at Police Station Anand Parbat for an offence under Section 363 IPC.
2. After completion of investigation, chargesheet was filed for offences under Sections 363, 366, 376 IPC read with Section 6 of the POCSO Act.
3. A perusal of the FIR reveals that a complaint was given by the father of the Prosecutrix stating that his daughter, who was 17 years 11 months old, at the time when the FIR was lodged, was missing from home.
4. The Prosecutrix was traced and she was found living with the



Petitioner. The Petitioner was taken into custody on 11.11.2020.

5. In the bail application that was filed on behalf of the Petitioner, the Prosecutrix stated that she had eloped with the accused on her own will and that the Petitioner has been falsely implicated by her parents out of revenge.

6. The Prosecutrix was present in Court at the time when the bail application was heard and the Court while granting bail confirmed that she was above 18 years of age at the time when the bail order was passed.

7. The Petitioner also filed a marriage certificate dated 06.04.2021 issued by Arya Samaj Mandir which states that the Petitioner and the Prosecutrix have married each other.

8. The Petitioner and the father of the Prosecutrix are present in Court today. The Prosecutrix has joined the proceedings through video-conferencing. The parties have been identified by the learned Counsel for the Petitioner and the Investigating Officer. The Prosecutrix states that she is happily married with the Petitioner. The father of the Prosecutrix also states that now there is a child out of the marriage and the family has also accepted the marriage.

9. Though it has been laid down by the Apex Court that offences under the POCSO Act are offences against the society and courts must not quash FIRs involving POCSO Act on the basis of settlement but in the present case, this Court is of the opinion not only the lives of two persons who are above the age of 21 years but also the future of a child would be in jeopardy if the instant FIR is not quashed.

10. In the special circumstances of the case, keeping in view the age of the parties, the future of the child, the fact that the Prosecutrix was just one month short of attaining majority before eloping with the Petitioner and the



fact that they are now living happily with each other, this Court is inclined to quash the instant FIR.

11. Resultantly, FIR No.317/2020 dated 06.11.2020 registered at Police Station Anand Parbat for an offence under Section 363 IPC and the proceedings emanating therefrom are hereby quashed.

12. The petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

AUGUST 30, 2024
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