



2024:DHC:5506



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 25.07.2024

+ CRL.M.C. 5615/2024

MOHD. FARID @ SONU & ORS.

.....Petitioner

Through: Mr. Neeraj Chaudhari, Mr. Premnath Upadhyay and Mr. Deeparghya Datt, Advocates along with petitioners in person.

versus

STATE (GOVT. OF NCT OF DELHI) & ANR.Respondents

Through: Mr. Yudhvair Singh Chauhan, APP with Mr. Pramod Kumar Thakur, Mr. Ajay Kumar Mishra, Mr. Parmanand Prasad, Mr. Ranjan Kumar Jha, Mr. Rhythmshect Srivastava, Mr. Dhananjay Kumar Mishra and Mr. Harshwati, Advocates and ASI Kamlesh and SI Nidhi Dahiya, PS Bara Hindu Rao.

Mr. Akshay Chandra and Mr. Vishal Tanwar, Advocates for R-2 alongwith R-2 in person.

CORAM:**HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA**

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J U D G M E N T**ANOOP KUMAR MENDIRATTA, J (ORAL)**

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioners for quashing of FIR No. 227/2024 under Sections 376 IPC registered at P.S.: Bara Hindu Rao and proceedings emanating therefrom. Sections 313 and 34 IPC were subsequently invoked.

2. In brief, as per the case of prosecution, on 22.04.2024, FIR was



registered on statement of respondent no. 2 /prosecutrix 'J' who alleged that while she was working at a textile factory in Azad Market, she met petitioner no. 1 Mohd. Farid @ Sonu who proposed to marry her. Further petitioner used to call her before opening of the factory and forcefully established sexual relations with her. They were fired from job when the same came to knowledge of factory owner. Later on, she got pregnant and the petitioner no. 1 provided her some pills for aborting the child. She further alleged that there was a meeting between mother of petitioner no. 1 and her family members, wherein mother of petitioner no. 1 promised that she will get petitioner no. 1 married with the complainant. In the meantime, due to forcible sexual relations, she got pregnant twice but was constrained to abort each time on the insistence of the petitioner no. 1.

3. Learned counsel for the petitioners submits that the present FIR has been registered since petitioner no. 1 could not marry the prosecutrix/respondent no. 2 due to some family reasons. He further submits that relations between petitioner No.1 and respondent No.2 were consensual and there is no evidence on record to infer, if respondent No.2 had aborted the pregnancy, since she refused for internal medical examination during investigation. He informs that Petitioner no. 1 and prosecutrix/ respondent no. 2 have since married on 18.07.2024 and prays that proceedings be quashed to ensure harmony and better life between the petitioner no.1 and prosecutrix/respondent no. 2.

4. Mr. Akshya Chandra, learned counsel on behalf of the prosecutrix/respondent no. 2 along with respondent no. 2 in person submit that FIR had been registered, since the petitioner no. 1 had initially refused to marry respondent No.2. Respondent no. 2 submits that she has no longer any



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grievance in this regard, since the petitioner no. 1 and respondent no. 2 are happily married since 18.07.2024 and prays that FIR be quashed to maintain harmony between the parties.

5. Learned APP for the State submits that though the investigation had been commenced on the complaint made by prosecutrix/respondent no. 2 but in the facts and circumstances, since prosecutrix/respondent no. 2 and petitioner no. 1 have voluntarily entered into a matrimonial alliance, coupled with the fact that sexual relationship between the parties appears to be consensual, appropriate orders be passed. On instructions from IO, he confirms that the marriage has been solemnized between petitioner no. 1 and prosecutrix/respondent no. 2, and they are residing together.

6. Petitioners in the present case seek to invoke the powers under Section 482 of Code of Criminal Procedure, 1973. The same is to be used to secure the ends of justice or to prevent the abuse of process of any Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be used when the offender as well as victim have settled their dispute, would depend upon the facts and circumstances of each case and no generalised list or categories can be prescribed. However, the Court is required to give due regard to the nature and gravity of the offence and consider the impact on the society.

7. In serious offences like rape, though the court should be slow in exercising the powers of quashing but is not foreclosed from examining whether there is sufficient evidence, which if, pressed would lead to proving the charge. Further the stage of proceedings for exercising the powers under Section 482 Cr.P.C., the possibility of conviction in view of settlement between the parties need to be considered. It also needs to be kept in



perspective, if the settlement should lead to harmony between the parties and if, the continuation of trial would be adding agony to their life, despite settlement.

Observations in para 12 & 13 in ***Kapil Gupta v. State (NCT of Delhi) and Another***, (2022) 15 SCC 44 wherein the proceedings under Section 376 IPC were quashed by the Hon'ble Supreme Court, after referring to principles laid down in ***Narinder Singh v. State of Punjab***, (2014) 6 SCC 466 may be beneficially referred:

"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."*

Reliance may also be placed upon ***Ananda D.V. v. State and Anr.***, **Criminal Appeal Nos.394-395 of 2021**, decided on 12.04.2021, wherein FIR under Section 376/380 IPC was quashed by the Hon'ble Supreme Court since the petitioner and respondent no.2 therein entered into a matrimonial alliance after registration of FIR.

8. Petitioners and respondent No. 2 are present in person and have been



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identified by SI Nidhi, P.S.: Bara Hindu Rao. I have interacted with the parties and they confirm that the matter has been amicably settled between them without any threat, pressure or coercion and they are since happily married. Respondent No. 2 also states that nothing remains to be further adjudicated upon between the parties and she has no objection in case the FIR in question is quashed.

9. It cannot be ignored that quashing of proceedings shall result in better harmony in the matrimonial relationship between the parties, rather than continuing with the proceedings under Section 376 IPC, which shall add to their agony. Also, the chances of conviction in the proceedings are remote and bleak, in view of settlement/marriage between the parties. Even otherwise the relationship between the parties appears to be consensual, prior to marriage.

10. Considering the facts and circumstances, since the matter has been amicably settled between the parties, no useful purpose shall be served by keeping the case pending. Continuation of proceedings would be nothing but an abuse of the process of Court and cause prejudice and disruption in harmony between the parties. Consequently, FIR No. 227/2024 under Sections 376/313/34 IPC registered at P.S.: Bara Hindu Rao, Delhi and the proceedings emanating therefrom stand quashed.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J.

JULY 25, 2024

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