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

+ **W.P.(CRL) 2261/2024**

KANHAIYA KUMAR YADAV

.....Petitioner

Through: Mr. Raheel Kohli, Mr. Mohd. Naseem Khan, Ms. Namita Sharma, Ms. Monika Sharma, Mr. Mohd. Yahya, Advocates with petitioner in-person.

versus

THE STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Anand V. Khatri, ASC (Crl.) for State with Inspector Amit Solanki and PSI Madhu Bala, P.S.: Sunlight Colony.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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30.07.2024

CRL.M.A. 22087/2024 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

W.P.(CRL) 2261/2024

By way of the present petition filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner and complainant/respondent No. 2, jointly seek quashing of case FIR No. 197/2024 dated 11.06.2024 registered under sections 354/354(A) of the Indian Penal Code 1860 ('IPC') and section 8 of the Protection of Children from Sexual Offences Act 2012 ('POCSO') at P.S.: Sunlight Colony.



2. The petition is premised on Settlement Deed/Memorandum of Understanding dated 11.07.2024, whereby the petitioner and respondent No. 2 have resolved the matter amicably.
3. The petition is also supported by affidavits of the petitioner and of respondent No. 2, alongwith proofs of their I.D.s.
4. The contesting parties are present in court. Their credentials have been verified and they have also been identified by their respective counsel.
5. Respondent No.2 is present in court and so is her father. They have been identified by the Investigating Officer. Respondent No.2 is about 13 years of age.
6. The court has interacted with the father of respondent No. 2. He states that the FIR came to be registered by reason of some error, based only on an oral version communicated to him by his daughter. He says that they have voluntarily settled the matter with the petitioner and he does not wish to pursue the proceedings arising from the FIR.
7. Though Mr. Anand V. Khatri, learned ASC appearing for the State points-out, that the initial statement of the child/respondent No.2, written in her own hand, is clear and unambiguous and discloses commission of an offence by the petitioner; but subsequently, in her statement recorded under section 164 Cr.P.C., respondent No. 2 has changed and diluted her version.
8. Learned ASC also submits, that at the highest, the offence made-out against the petitioner is of inappropriately touching and kissing



respondent No.2 and there was no allegation or evidence of any violence or any penetrative act in the case.

9. The court has interacted with the petitioner. He is evidently a person of meagre means. He says that he plies a rickshaw, which he rents from an owner and makes his living. He also does not appear to have any other skill set. The court is therefore unable to contemplate any other manner of atonement, which the petitioner may be directed to perform. The court has however cautioned the petitioner against any future breach of the law.
10. The parties have confirmed that they have now resolved the matter mutually and Settlement Deed/Memorandum of Understanding dated 11.07.2024 has been signed by them closing all issues amicably. Parties now wish to live in peace and harmony going forward.
11. Mr. Khatri, learned ASC confirms that the State has no objection to the subject FIR being quashed.
12. In the circumstances, 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.
13. Accordingly, FIR No. 197/2024 dated 11.06.2024 is quashed. All proceedings arising therefrom also stand closed.



14. Petition stands disposed-of.
15. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JULY 30, 2024/ak