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

+ CRL.M.C. 7308/2024 and CRL.M.A. 27876/2024

ANIL KUMAR

.....Petitioner

Through: Mr. Shivashish Gunwal, Mr.Rohit
Khatana, Mr.Vikas Bidhuri, Mr.Vaibhav Mahal,
Mr.Sushant and Mr.Arjun Gupta, Advocates

versus

THE STATE & ANR.

.....Respondents

Through: Mr. Aashneet Singh, APP for State with
SI Kamal Sharma

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

18.10.2024

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1. The present petition has been filed seeking quashing of FIR No.406/2017 registered under Sections 376 IPC and 6 POCSO at P.S. Fatehpur Beri, Delhi and the consequent proceedings arising therefrom.
2. As per the allegations levelled in the present FIR, the petitioner established forceful physical relations with the complainant/victim on the pretext of marriage. Further, it has been alleged that the petitioner tortured the complainant and gave her beatings.
3. It is noted that the present FIR is sought to be quashed on the ground that the parties have married to each other. It is stated that on account of intervention of family, the parties got married on 08.05.2023 and have been living together since.



4. Learned APP for the State has taken a preliminary objection to the maintainability of the present petition and submits that the offences are grave and serious in nature. It is stated that the victim was minor at the time of the incident. Apart from the offence under Section 376 IPC, the petitioner is also implicated under Section 6 of POCSO. It is submitted that the chargesheet has been filed and the charge has been framed. Further, the complainant/victim in the present case has already been testified where she has supported the prosecution case. It is further stressed that the statement of object of the POCSO Act states that the Act is aimed to secure the tender age of the children and ensure they are not abused and their childhood and youth is protected against exploitation. An offence of rape is an offence against the society at large and should not just be quashed on the basis of settlement between the parties.

In support of his submission, he has referred to the Supreme Court decisions in Gian Singh v. State of Punjab & Anr.¹ and State of Madhya Pradesh v. Laxmi Narayan & Ors.²

5. The Supreme Court in Gian Singh (supra), has observed as under:

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61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent

¹ (2012) 10 SCC 303

² (2019) 5 SCC 688



*abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society....
xxx”*

6. Keeping in view the gravity of allegations and considering that complainant/victim in the FIR has alleged that the petitioner forcefully established physical relations with her on the pretext of marriage when she was just a minor as well as the fact that the complainant/victim has already testified where she has supported the prosecution case, the present petition is an abuse of the process of law.

7. Further, considering the import of the aforementioned decision and the similar observations made by the Court in Shimbhu v. State of Haryana reported as (2014) 13 SCC 318 as well as the nature and gravity of the offence, I find no ground to entertain the present petition. Accordingly, the same is dismissed alongwith the pending application.

8. The observations made hereinabove are only for the purpose of disposal of the present petition and shall not be considered as an expression on the merits of the case.

MANOJ KUMAR OHRI, J

OCTOBER 18, 2024

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