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

+ **CRL.M.C. 8269/2024**

BARUN KUMAR

.....Petitioner

Through: Mr. Devender Kumar Dubey and Mr.
Amit Kumar Singh, Advocates

versus

THE STATE GOVT. OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Raghuinder Verma, APP for the
State with SI Manju
Mr. Satyam Tripathi, Advocate for R-
2 and R-3

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

20.11.2024

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1. The instant petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter “BNSS”) (earlier Section 482 of the Code of Criminal Procedure, 1973(hereinafter “Cr.P.C.”)) has been filed by the petitioners praying for quashing of FIR bearing No. 140/2015 registered at Police Station Inder Puri, New Delhi, for offences punishable under Sections under Sections 363/366/376 of the Indian Penal Code, 1860 (hereinafter “IPC”).

2. The brief facts of the case are that an FIR bearing no. 140/2015 was registered at Police Station Inder Puri, New Delhi under Section 363 of the



Indian Penal Code, 1860 ('IPC' hereinafter) on the complaint filed by the respondent no.3 i.e. brother of the respondent no.2.

3. On the basis of the same, the police apprehended the petitioner on 2nd August, 2018 and it was revealed that the respondent no.2/prosecutrix and the petitioner were married and cohabiting since the year 2015 itself.

4. Subsequently, the petitioner was arrested and Section 366/376 IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 ('POCSO' hereinafter) were added. Later on, the petitioner was granted bail and the chargesheet was filed by the police.

5. On the basis of the marriage, the present petition has been filed seeking quashing of the FIR.

6. The learned counsel appearing on behalf of the petitioner submitted that the petitioner and the respondent no.2/prosecutrix are legally wedded couple and have been living a peaceful life.

7. It is submitted that the complainant i.e. the brother of the respondent no.2 does not have any grievance against the petitioner and therefore, the trial in the instant case on the basis of FIR would serve no purpose.

8. It is submitted that the prosecution of the petitioner shall affect the married life of the couple and would cause further hardship to them as there are two children born out of the wedlock and all the family members are living peacefully.

9. Therefore, in view of the foregoing submissions, it is prayed that the present petition be allowed and the FIR be quashed.

10. *Per Contra*, the learned APP appearing for the State opposed the instant petition, however, conceded to the fact that the petitioner and the



respondent no.2/prosecutrix had gotten married in the year 2015 itself and 2 children are born out of the wedlock.

11. The respondent no.2/prosecutrix is also present before this Court and agreed with the submissions made by the learned counsel appearing for the petitioner and also prayed for quashing of the FIR on the basis of the marriage being solemnized between the parties.

12. Heard the learned counsel for the parties and perused the records

13. The instant petition for quashing has been filed by the petitioner on the basis of the marriage solemnized between him and the respondent no.2/prosecutrix. In support of his contentions, the petitioner has supplemented proof of the marriage and also apprised this Court that the couple has two children and all four of them are living peacefully.

14. As per the settled position of law, the quashing of an FIR in the cases constituting serious offences is uncalled for until and unless it is established that the said case would serve no purpose rather only make the parties suffer further.

15. It is no doubt that a crime committed against a particular person is not only against that person but against the entire society, therefore, even if a settlement has arrived at between the parties, the Courts are duty bound to determine if quashing of FIR would cause any prejudice/impact to the society at large.

16. In the instant case, during the course of proceedings, the parties are present before this Court and satisfied that the quashing of the FIR would not cause any harm to the either of them as the complaint upon which the FIR was lodged was based on the *bonafide* mistake on part of the brother of



the respondent no.2/prosecutrix as he was under the impression that the petitioner had kidnapped his sister.

17. Even though there is objection on behalf of the learned APP on the aspect of quashing of an FIR lodged under POCSO, this Court does not find any reasons to believe that the continuation of the same would serve any purpose.

18. The instant criminal proceedings in respect of non-compoundable offences are private in nature and do not have a serious impact on the society especially when there is a settlement/compromise between victim and accused. In such cases, it is settled law that High Court is also required to consider the conduct and antecedents of the accused in order to ascertain that the settlement has been entered into by her own free will and has not been imposed upon her by the petitioner or any person related to him. There is also no allegation from respondent no.2 that the conduct and antecedents of petitioners have been bad towards her in any manner.

19. In the case of State of *Madhya Pradesh vs. Laxmi Narayan and Ors.*, (2019) 5 SCC 688, the Hon'ble Supreme Court held that the powers conferred under Section 482 of the Cr.P.C, can be exercised by the Courts to quash the criminal proceedings featuring non-compoundable offences, when the matter arises out of matrimonial or family disputes. Moreover, it is pertinent to satisfy the Court that the said non-compoundable offences are private in nature and does not have a serious impact on the society.

20. Furthermore, it was observed by the Hon'ble Supreme Court in the case of *Ramgopal and Ors. Vs. The State of Madhya Pradesh*, 2021 INSC 568, that the extraordinary power enjoined upon the High Courts under Section 482 of Cr.P.C. can be invoked even when such a case falls within



the ambit of non-compoundable offences given that the Court must be satisfied that the nature of the offence does not impact the conscious of the society and that the compromise between the parties is voluntary and amicable.

21. In view of the law laid down by the Hon'ble Supreme Court, and the factum that the petitioner and the respondent no.2/prosecutrix are happily married and have two children, the present petition is allowed. Accordingly, FIR bearing No. 140/2015 registered at Police Station Inder Puri, New Delhi, for offences punishable under Section 6 of POCSO under Sections 363/366/376 of the IPC and all consequential proceedings emanating therefrom are quashed.

22. The petition alongwith pending applications, if any, stand disposed of.

CHANDRA DHARI SINGH, J

NOVEMBER 20, 2024
gs/av

Click here to check corrigendum, if any