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

+ CRL.M.C. 8869/2024

PRAKASH KUMAR

.....Petitioner

Through: Mr. Jitendra Singh, Advocate.

versus

THE STATE GOVT. OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Satish Kumar, APP for the State
with SI Sukhchain.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

13.11.2024

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1. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter “CrPC”) (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) has been filed on behalf of the petitioner seeking quashing of the FIR no. 692/2018, registered at Police Station – Nihal Vihar, West District, Delhi for offences punishable under Sections 376 of the Indian Penal Code (hereinafter “IPC) and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter “POCSO”).

2. Learned counsel appearing on behalf of the petitioner/accused submitted that as per the complaint of the respondent no. 2/victim, the petitioner had given her assurances that he will marry her and on the said pretext, the petitioner made physical relations with her, however, in the statement recorded under Section 164 of the CrPC, the respondent no. 2 stated that no penetrative sexual assault was committed upon her.



3. It is submitted that the subject matter of the aforesaid FIR has been amicably settled between the parties vide the settlement agreement dated 13th August, 2024, wherein, it was stated by the respondent no. 2 that she does not wish to pursue the present matter any further as she got married to the petitioner on 2nd June, 2023. It is further submitted that it has been agreed between the parties that the respondent no. 2 shall cooperate in quashing of the FIR, and accordingly, gave her NOC/affidavit regarding the same.

4. It is submitted that the disputes have been settled between the parties on their own free will, volition consent, without there being any undue pressure or coercion in any form. Furthermore, both the parties undertake that they will be bound by the agreed terms/stipulations of the aforesaid settlement agreement. Therefore, in view of the foregoing submissions, it is prayed that the instant petition may be allowed and the reliefs be granted as prayed for.

5. *Per Contra*, the learned APP appearing on behalf of the State vehemently opposed the instant petition submitting to the effect that the petitioner was charged with heinous offences punishable under Sections 376 of the IPC and Section 6 of the POCSO. Therefore, the instant petition is liable to be dismissed as FIR alleging offences of such a nature may not be quashed.

6. Heard the learned counsel appearing on behalf of the parties and perused the material available on record.

7. Here, it is pertinent to refer to one of the recent judgments of the Hon'ble Supreme Court passed in ***X3 v. State of Gujarat, 2024 SCC OnLine SC 3314***, wherein, the Hon'ble Court observed that where a



settlement has been arrived at between the parties in offences pertaining to Section 376 of the IPC, the High Court has to consider the question of whether the power under Section 482 of the CrPC (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) can be exercised to quash the criminal proceedings based on some compromise.

8. The general rule to exercise the inherent powers of this Court is to make sure that such powers are not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity like murder, rape, dacoity etc as such offences are not private in nature and have a serious impact on the society.

9. With regard to the facts of the instant case, in this Court's opinion, the offence of rape being a heinous offence of violating a woman's bodily autonomy, it stands as an offence against the society. Furthermore, while the Courts are often tasked with the responsibility of ensuring fairness, there are certain areas where compromise is not only inappropriate but also fundamentally unjust.

10. Bearing in mind the aforesaid discussion on law, this Court is of the view that in the event the present petition is allowed and the FIR is quashed, the same would amount to trivializing the sufferings of a rape victim, and reducing her anguish to a mere marital relationship which is contradictory to the intent of promulgation of the penal laws. It would amount to giving a message to perpetrators of such offence that heinous act of rape can be absolved by remarrying the victim, a notion that is as repugnant as it is repulsive.

11. The Hon'ble Supreme Court as well as various High Courts have time and again held that the criminal proceedings arising out of heinous offences



such as rape cannot be quashed merely on the basis of some settlement agreement executed between the parties.

12. By way of the present petition, the petitioner has sought quashing of the FIR in view of the fact that the parties are now married and have entered into a settlement agreement wherein the respondent no. 2 has stated that she will cooperate in quashing of the FIR.

13. This Court has meticulously examined the entire material on record including the FIR, chargesheet, statement of the respondent no. 2 recorded under Section 164 of the CrPC.

14. Upon examination of the material available on record, it is observed by this Court that the petitioner herein is charged with heinous offences, i.e., commission of penetrative assault/rape on the respondent no. 2 when she was a minor.

15. In view of the same and having regard to the overall facts and circumstances of the case, and the law laid down by the Hon'ble Supreme Court in various judicial precedents, this Court is of the considered view that the present petition for quashing of FIR, on the basis of compromise, is not a fit case to exercise inherent powers of this Court, and thus, the same is liable to be dismissed.

16. Accordingly, the instant petition stand dismissed along with the pending applications, if any.

17. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

NOVEMBER 13, 2024
NA/RYP/MK

[Click here to check corrigendum, if any](#)