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

+ CRL.M.C. 71/2025, CRL.M.A. 400-401/2025

FAIQ AKHTAR

.....Petitioner

Through: Mr. Raj Kumar, Advocate

versus

STATE GOVT. OF NCT OF DELHI AND ANR.Respondents

Through: Mr. Mukesh Kumar, APP for the
State with Insp. Pankaj Kumar, PS
Seelampur, Delhi
Mr. Mohd. Tasleem, Mr. Vikash,
Advocates for R-2 with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

27.05.2025

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1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 482 of the Code of Criminal Procedure, 1973²) seeks quashing of FIR No. 515/2019 under Sections 376 and 328 of the Indian Penal Code, 1860³ as well as Section 6 of the Protection of Children from Sexual Offences Act, 2012⁴, registered at P.S. Seelampur, Delhi and all proceedings emanating therefrom.

2. Given the seriousness of the allegations made in the FIR, related to offences under Sections 376 and 328 of the IPC read with Section 6 of the POCSO Act, this Court has closely examined the factual matrix and also

¹ "BNSS"

² "Cr.P.C."

³ "IPC"

⁴ "POCSO Act"



interacted with the prosecutrix, i.e., Respondent No. 2, who is present in person. The FIR was lodged in the year 2019, at which time the prosecutrix was 21 years of age. The allegations pertain to an incident said to have occurred when she was a minor studying in Class VIII. However, in Court Respondent No. 2 clarifies that the FIR had been lodged due to a misunderstanding and that she was, in fact, in a consensual relationship with the Petitioner. She categorically states before the Court that the Petitioner never took advantage of her, nor did he commit any sexual assault upon her.

3. It is also relevant to note that since the FIR was filed in 2019, the trial in the case has since progressed and the statement of the prosecutrix has been recorded before the Trial Court, wherein she has completely retracted the allegations made in the FIR. Significantly, Respondent No. 2 also informs the Court that she and the Petitioner have now mutually decided to get married and wish to lead a settled life together. She affirms that this decision has been made voluntarily, of her own free will, and without any pressure or coercion from any person. It is further brought to the notice of the Court that since the parties belong to different faiths, they have applied for solemnisation of their marriage under the Special Marriage Act, 1954. The acknowledgment receipt of the said application has been handed over across the Board and is taken on record.

4. On a specific query by the Court, Respondent No. 2 unequivocally states that the allegations made in the FIR do not reflect the truth and reiterates that her deposition before the Trial Court accurately reflects the factual position. She affirms that she has no grievance whatsoever against the Petitioner.

5. In addition, the Petitioner and Respondent No. 2 have executed a



Compromise Deed dated 04th December, 2024, which has been placed on record and perused. As per its terms, the parties have amicably resolved all disputes and differences. Respondent No. 2 has expressly stated her no-objection to the quashing of the FIR and has agreed to support the present petition voluntarily and without any compulsion.

6. The statement of the Prosecutrix - Respondent No. 2 was recorded before the Joint Registrar of this Court on 20th January, 2025, wherein she has re-affirmed that she has voluntarily and without any pressure or coercion from anyone, settled all her issues and disputes with the Petitioner. She also confirmed that she has executed the Compromise Deed and that she has no objection if the subject FIR is quashed. In light of the amicable resolution parties jointly seek quashing of the subject FIR and all proceedings arising therefrom.

7. The Court has considered the submissions of the parties. The present case presents a peculiar predicament for the Court. The offences alleged in the subject FIR are under Section 376 and 328 of IPC, which are non-compoundable. However, it is well settled that in the exercise of its inherent powers under Section 482 Cr.P.C. (now Section 582 BNSS), the Court may, in appropriate cases, quash proceedings in respect of non-compoundable offences if the parties have reached a genuine settlement and no overarching public interest is adversely affected. In this regard, the Supreme Court in **Gian Singh v. State of Punjab & Anr.**⁵ has held as follows:

“11. As discussed above, offence punishable under Section 186/332/353 of the IPC are non-compoundable being of serious nature, however, if the Court feels that continuation of criminal proceedings will be an exercise in futility and justice in this case

⁵ (2012) 10 SCC 303



demands that the dispute between the parties is put to an end and peace is restored, it can order for quashing of the FIR or criminal proceedings as it is the duty of the Court to prevent continuation of unnecessary judicial process.

12. In view of the law discussed above, considering the Settlement arrived at between the parties and the statements of respondent no.1 & 2, I am of the considered opinion that this matter deserves to be given a quietus as continuance of proceedings arising out of the FIR in question would be an exercise in futility.”

[Emphasis added]

8. Further, in ***Narinder Singh & Ors. v. State of Punjab & Anr.***,⁶ the Supreme Court held as follows:

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. **No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves.** However, this power is to be exercised sparingly and with caution.

29.2. **When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:**

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public

⁶ (2014) 6 SCC 466



servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

[Emphasis Supplied]

9. The offence under Section 376 and 328 of IPC are grave and serious in nature and as such, cannot be treated as strictly ‘*in personam*’. They form the bedrock of public concerns rather than being confined to individual grievances. However, the Court must also account for the practical realities of securing a conviction in the present case. The Supreme Court has consistently held that in cases where the complainant has entered into a voluntary and *bona fide* settlement, and is no longer inclined to support the prosecution, the prospect of securing a conviction becomes exceedingly remote. In such circumstances, continuing the prosecution may not only prove futile, but would also serve no worthwhile public interest.

10. In the present case, Respondent No. 2 – the prosecutrix has unequivocally stated before the Trial Court and before this Court, that the allegations made in the FIR are false and that she was actually in a consensual loving relationship with the Petitioner (accused). Moreover, the parties have also indicated their wishes to get married and live together in matrimony, for which they have already initiated the necessary legal processes. She has further categorically expressed her unwillingness to pursue the matter further and has confirmed the settlement as voluntary and



devoid of any coercion. Given this background, the continuation of criminal proceedings would amount to an empty formality, adding to the burden of the justice system and consuming public resources unnecessarily. Having regard to the totality of circumstances, and in view of the legal principles laid down by the Supreme Court, this Court finds the present case to be an appropriate one for exercise of jurisdiction under Section 528 of BNSS to secure the ends of justice.

11. In view of the foregoing, the present petition is allowed and FIR No. 515/2019 under Sections 376 and 328 of IPC as well as Section 6 of POCSO Act, registered at P.S. Seelampur, Delhi and all proceedings emanating therefrom are hereby quashed.

12. The parties shall remain bound by the terms of settlement.

13. Accordingly, the petition is disposed of along with pending application(s).

SANJEEV NARULA, J

MAY 27, 2025/ab