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

+ CRL.M.C. 829/2024

NAVEEN KUMAR

.....Petitioner

Through: Mr. Rakesh Pal Singh, Advocate
along with petitioner in person.

versus

THE STATE AND ANOTHER

.....Respondents

Through: Mr. Utkrash, APP for the State with
SI Ashish, PS Nand Nagri
Respondent no. 2 (through VC)

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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03.02.2025

1. The present petition has been filed under Section 482 CrPC seeking quashing of FIR No. 956/2016 under Section 376 IPC read with Section 6 of POCSO Act, registered at Police Station Nand Nagri, Delhi and all consequential proceedings emanating therefrom on the ground that during the pendency of criminal proceedings relating to FIR under consideration, the petitioner and respondent no. 2/victim got married.
2. Notice was issued in the petition *vide* order dated 02.02.2024.
3. The petitioner is present in Court while the respondent no.2/victim has joined through video conferencing and they have been identified by counsel for the petitioner as well as by the Investigating Officer/SI Ashish, Police Station Nand Nagri, Delhi.
4. The case of the prosecution is that the present FIR got registered at



the instance of mother of the respondent no. 2/victim alleging that the petitioner by doing wrong things to her minor daughter has impregnated her.

5. Learned counsel for the petitioner submits that during the pendency of the criminal proceedings, the petitioner got married to the respondent no. 2 on 07.07.2017. He submits that one child was born prior to the marriage and after marriage also, the couple have been blessed with another child.

6. He further submits that immediately after the registration of the FIR under consideration, the victim/respondent no. 2 started residing with the petitioner and they are currently staying together.

7. The factum of marriage is affirmed by the learned APP appearing on behalf of the State, on instructions from the IO who is present in Court. Learned APP, on instructions, fairly submits that respondent no. 2 has not supported the case of the prosecution in her statement recorded under Section 164 Cr. P.C.

8. Respondent no. 2 who is present in Court, on a query posed by the Court, affirms the factum of marriage with the petitioner and states that she is residing in her matrimonial home ever since her marriage on 07.07.2017. She further affirms that the couple have been blessed with two children. She states that she does not wish to prosecute the present matter and the present FIR be quashed.

9. At this stage, apposite would it be to rely on the decision dated 19.09.2024 passed by the Coordinate Bench of this court in CrI.M.C. 7406/2024 titled ***Sujit Kumar v. State (Govt. of NCT of Delhi) & Anr.*** wherein relying upon a decision of Rajasthan High Court in ***Tarun Vaishnav v. State of Rajasthan through PP & Anr., 2022 SCC OnLine Raj 2237***, this court had quashed FIR under Sections 363/366/376/506 IPC and



Section 6 POCSO Act regard being had to the peculiar circumstances of the case as the petitioner therein was 19 years of age while the victim/respondent no.2 was 17 years of age and they had also married of their own free will and were blessed with a child. The relevant part of the said decision reads as under:

*“8. Additionally, it may be noted that various High Courts have quashed FIRs in similar such circumstances, one such decision being **Tarun Vaishnav v. State of Rajasthan through PP & Anr.** 2022 SCC OnLine Raj 2237 by the Jodhpur Bench of the Rajasthan High Court. Said decision has attained finality as a Special Leave Petition against the same was dismissed by the Apex Court on 03rd March 2023 vide SLP (Crl.) No. 1890/2023. Decision of the Rajasthan High Court was rendered in a case where prosecutrix delivered a baby in the hospital and the FIR was lodged pursuant to statement of the minor girl. Statement recorded by IO revealed a romantic relationship between the 16 year old prosecutrix and 22 year old accused. Court, in that case, took into consideration the facts and circumstances of that case and noted that there was a love affair involving a physical relationship out of immaturity, and quashed the FIR against the accused/petitioner therein. Relevant portions of this decision are extracted as under:*

“13. This Court is not oblivious of the legal position that in cases concerning sexual act with a minor, consent, if any, has no legal sanctity and it cannot be used as a defence. Needless to mention that this Court cannot and does not accord any approval or sanction to the sexual act of petitioner with the prosecutrix but then, it is a hard reality that their love affair has traversed beyond the legal and moral bounds, consequence whereof has begotten a child.

14. This Court cannot be a silent spectator to or turn its back on the distressed family. If the impugned FIR is not quashed, the petitioner will have to face incarceration for at least 10 years. The mistake or blunder which otherwise constitutes an offence has been committed due to immature act and uncontrolled emotions of two persons, out of whom,



one is still a minor.

15. *The petitioner's prosecution and conviction will lead to pain and tears in the eyes of the family members of both the parties and future of two families, and above all, an innocent child will be at stake, whereas, if the impugned FIR is quashed, it would serve the ends of justice.*

16. *It is to be noted that in almost similar circumstances, different High Courts have quashed the FIR/proceedings. The following are to mention a few:-*

(i) *Vijayalakshmi v. State (Crl.M.P. No. 109/2021), decided on 27.01.2021 by Hon'ble High Court of Madras;*

(ii) *Kundan v. State (Crl.M.C. No. 27/2022), decided on 21.02.2022 by Hon'ble High Court of Delhi;*

(iii) *Shri Skhemborland Suting v. State of Meghalaya (Crl. Petition No. 63/2021), decided on 23.03.2022 by Hon'ble High Court of Meghalaya.*

17. *Different High Courts have given different reasonings dealing with medical, psychological, social angles of the situation; analysing the statement of objects and reasons of the POCSO Act; considering practical realities including future of the newborn child involved.*

(emphasis added)

9. *In the present case as well, parents of the prosecutrix have expressed concern for the prosecutrix, as also her baby, and are mindful of the lack of maturity and mistake of the daughter which ultimately led to the delivery of the baby.”*

10. In the said decision, the judgment of the Rajasthan High Court in ***Tarun Vaishnav*** (*supra*) which was relied upon was also on similar facts wherein the FIR was under Section 376 IPC read with Sections 3 and 4 of POCSO Act and the complainant was a minor, who had married the accused and they were blessed with a child. In this factual backdrop the FIR was quashed. It is also recorded in the decision that SLP filed against the



decision in ***Tarun Vaishnav*** (*supra*) also came to be dismissed by the Hon'ble Supreme Court.

11. The decisions in ***Sujit Kumar*** (*supra*) and ***Tarun Vaishnav*** (*supra*) squarely apply to the facts of the present case. The present case is also a case of romantic relationship where the petitioner and respondent no.2 got married and the FIR was registered at the instance of the mother of the respondent no. 2 when she learnt about her daughter's pregnancy.

12. The respondent no.2, who is present court, on a query posed by the Court states that she has no objection in case the criminal case is closed and the FIR is quashed.

13. Having regard to the aforesaid peculiar circumstances that the petitioner and respondent no. 2 are married, living together as husband and wife and have also been blessed with two children, this court is of the view that the present petition deserves to be allowed to serve the ends of justice.

14. Consequently, FIR No. 956/2016 under Section 376 IPC read with Section 6 of POCSO Act, registered at Police Station Nand Nagri, Delhi and all consequential proceedings emanating therefrom is quashed.

15. With the aforesaid directions, the petition stands disposed of.

VIKAS MAHAJAN, J

FEBRUARY 3, 2025

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