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

+ **CRL.M.C. 1330/2024**

LUCKY SINGH

.....Petitioner

Through: Mr. Dalip Kumar Santoshi and Mr.
Rakesh Kumar, Advocates along with
petitioner in person.

versus

STATE OF GOVT. NCT OF DELHI AND ANR.Respondents

Through: Ms. Kiran Bairwa, APP for the State
with SI Dharmendra Sharma, PS Patel
Nagar, W/SI Jaspreet Pannu, PS
Paharganj
Respondent No. 2 in person.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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04.02.2025

1. The present petition has been filed under Section 482 CrPC seeking quashing of FIR No. 424/2020 under Sections 323/363/376 IPC, Section 6 of POCSO Act read with Section 9 of Prohibition of Child Marriage Act, 2006 registered at Police Station Patel Nagar, Delhi and all consequential proceedings emanating therefrom on the ground that the petitioner (husband) and the respondent no.2 (wife) are living together as husband and wife.
2. The petitioner, as well as, respondent no.2/victim are present in the Court and they have been identified by counsel for the petitioner as well as by the Investigating Officer/IO i.e. SI Dharmendra Sharma, Police Station Patel Nagar, Delhi.
3. The case of the prosecution is that the petitioner had approached the



police and got his statement recorded to the effect that he got married to the victim on 20.01.2020 as per Hindu Rites and Customs in Shiv Mandir, Khanna Market, New Delhi. In the said marriage, about 200-300 people had participated. It is further alleged that quite often his wife/victim would go to her parental home without informing. Again on 01.10.2020 she had left the matrimonial home at about 8.10 p.m. without informing. On the basis of the said complaint, the FIR came to be registered. However, during investigation, the victim was called to the police station where she levelled various allegations on the basis of which offences under Sections 363/323/376 IPC and Section 6 of POCSO Act read with Section 9 of Prohibition of Child Marriage Act, 2006 were invoked against the petitioner.

4. Learned counsel appearing on behalf of the petitioner submits that immediately after registration of the aforesaid FIR, the victim/respondent no. 2 started residing with the petitioner and they are now staying together.

5. Respondent no. 2 who is present in Court, on a query posed by the Court, states that she is residing in her matrimonial home and does not wish to prosecute the present matter. Likewise, the mother of the victim/respondent no. 2, who is also present in Court, states that the victim is happily residing with the petitioner and they do not wish to continue with the criminal proceedings.

6. Apt would it be to rely upon a decision of 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."

7. 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 and she had married the accused and they were blessed with a child and 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.



8. The decisions in ***Sujit Kumar (supra)*** and ***Tarun Vaishnav (supra)*** squarely apply to the facts of the present case. It is also a case of romantic relationship where the petitioner and respondent no.2 got married despite the fact that the respondent no.2 had not attained legal age of marriage.

9. Insofar as the allegations under the Prohibition of Child Marriage Act, 2006 is concerned, undoubtedly no judicial imprimatur can be given to the validity of such marriage. However, having regard to the peculiar features of the present case, where after her marriage, the respondent no.2 left her matrimonial home under the influence of her aunty and gave her statement before the police on the basis of which chargesheet was filed against the petitioner, a fact which is borne out from the settlement placed on record as Annexure P3 to the present petition, this Court is of the view that the life of the respondent no.2 will be ruined in case the present criminal proceedings are allowed to continue.

10. Consequently, FIR No. 424/2020 under Sections 323/363/376 IPC, Section 6 of POCSO Act read with Section 9 of Prohibition of Child Marriage Act, 2006 registered at Police Station Patel Nagar, Delhi and all consequential proceedings emanating therefrom is quashed.

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

VIKAS MAHAJAN, J

FEBRUARY 4, 2025

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