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

+ CRL.M.C. 2298/2024

MOHAMMAD WAHID

.....Petitioner

Through: Mr.Imran Khan and Mr.Yusuf Khan,
Advts. with petitioner.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for State with
SI Kavish Rana, PS Laxmi Nagar.
Mr.Raj Kumar, Adv. with R-2.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

20.01.2025

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1. The present petition has been filed under Section 482 CrPC seeking quashing of FIR No. 2092/2014 under Sections 376/313/328/506 IPC and 376(2)(n) IPC registered at Police Station Shakarpur, Delhi and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.
2. Notice in the petition was issued *vide* order dated 20.03.2024.
3. The present FIR was registered at the instance of respondent No.2 alleging that the petitioner forcibly established physical relationship with her. Thereafter, *vide* order dated 12.07.2023, charges were framed against the petitioner, *inter alia*, under Section 376(2)(n) IPC on the ground that the petitioner had repeatedly committed sexual intercourse with respondent no.2 on the false promise of marriage.



4. The learned counsel appearing on behalf of the petitioner submits that during the pendency of the present proceedings, the petitioner and respondent no.2 married each other in January, 2014 according to Muslim Rites and Customs. They are also blessed with two girl children.

5. He further submits that petitioner and respondent no.2, along with their daughters, are happily residing together, ever since their marriage took place in 2014.

6. The petitioner (husband), as well as, respondent no. 2 (wife) are present in the Court and they have been identified by their respective counsel and by the Investigating Officer SI Kavish Rana, PS Laxmi Nagar.

7. The respondent no.2, on a query posed by the Court, affirms the factum that the parties have arrived at a settlement and are living together as husband and wife. She states that she has no objection in case the FIR is quashed. She also affirms that she has been blessed with two children. She further states that the life of her and her children will be ruined in case the present proceedings are allowed to be continued and FIR is not quashed.

8. In the present case, the offences alleged against the petitioner are, inter-alia, under Section 376 IPC. Though, it is a trite law that ordinarily the High Courts must show restraint in quashing FIRs involving offence under Section 376 IPC but in the peculiar facts and circumstances of the case, the same can be quashed. In this regard, reference may advantageously be made to a decision of a coordinate bench of this Court in '**Kundan & Anr. Vs. State & Ors.**¹' wherein it was held as under:-

“7. Ordinarily the High Courts must show restrain in quashing FIRs for offences under Sections 376 IPC and POCSO

¹ 2022 SCC OnLine Del 4809.



Act. In the instant case the FIR was registered under Section 363 IPC and Section 376 IPC and Section 6 of the POCSO Act were added later on. The victim/Petitioner No. 2 has stated in her 164 statement that she was in love with the Petitioner No. 1 and she eloped with him out of her own volition. It is stated they got married in a temple in Uttar Pradesh on the very next day and the Petitioner No. 2/victim has given birth to a baby boy. The families of the Petitioners No. 1 & 2 have accepted the marriage.

8. *Considering the fact that the whole life of Petitioner No. 1 and Petitioner No. 2 and their child would be ruined, this Court asked the learned APP as to whether she has any objections if this Court exercises its jurisdiction under Section 482 Cr. P.C. and quash the FIR. Learned APP for the State very fairly and taking humanitarian approach stated that she has no objections if the instant FIR is quashed.*

9. *In view of the peculiar facts and circumstances of this case, this Court is inclined to quash the FIR. Resultantly, FIR No. 275/2019 dated 30.10.2019 registered at Police Station Delhi Cantt for offences under Section 363/366/376 IPC and Section 6 of the POCSO Act and the proceedings emanating therefrom are hereby quashed.*

10. *Accordingly, the petition is disposed of along with the pending application(s), if any.”*

9. Needless to say, since the petitioner and respondent no. 2 are married and they are living together as husband and wife and have also been blessed with two children, the analogy of **Kundan** (*supra*) will apply to the present case.

10. In view of the peculiar facts and circumstances of the present case, no useful purpose will be served in continuing the proceedings, rather the same would create further acrimony between them.

11. It is, thus, in the interest of justice that the present FIR and all the other proceedings emanating therefrom be quashed.



12. Consequently, the petition is allowed and the FIR No. 2092/2014 under Sections 376/313/328/506 IPC and 376(2)(n) IPC registered at Police Station Shakarpur, Delhi alongwith all other proceedings emanating therefrom, is quashed.
13. The petition stands disposed of in the above terms.
14. Order be uploaded on the website of this court.

VIKAS MAHAJAN, J

JANUARY 20, 2025
VLD