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

\+ CRL.M.C. 2503/2024

VISHAL .....Petitioner

Through: Mr. Himanshu Sharma and Mr. Vineet Singh, Advs. with petitioner in person.

versus

STATE (GOVT. OF NCT OF DELHI) AND ANR. .....Respondents

Through: Mr. Naresh Kumar Chahar, APP for State with SI Ankur Sharma PS Sultanpuri
Respondent no. 2 in person.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

O R D E R

% 18.02.2025

1. The present petition has been filed under Section 482 of CrPC seeking quashing of FIR No.1108/2023 under Section 376 IPC and Section 6 POCSO Act registered at P.S. Sultanpuri, Delhi and all consequential proceedings emanating therefrom on the ground that the petitioner and respondent no.2 have married each other.

2. Notice was issued by this Court vide order dated 28.03.2024.

3. The petitioner, as well as, the respondent no.2 are present in Court and they have been identified by the learned counsel for the petitioner as well as by the Investigating Officer SI Ankur Sharma PS Sultanpuri.

4. The brief facts of the case are that the aforesaid FIR came to be

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registered at the instance of respondent no.2 on the basis of allegations that the petitioner established physical relationship with the respondent no.2 on the pretext of marriage.

5. During the pendency of criminal proceedings, the petitioner and the respondent no.2 got married on 19.12.2023 and have been blessed with one child. A copy of the marriage certificate, as well as, birth certificate of the child has been handed over at Bar. The same is taken on record.

6. On a query posed by the Court, the respondent no.2 affirms the factum of her marriage with the petitioner and states that she has no objection in case the aforesaid FIR is quashed.

7. On a further query posed by the Court, learned APP on instruction from I.O., who is present in Court, also affirms the factum of settlement.

8. In the present case, two of the offences which are alleged against the petitioner are under Section 376 IPC and Section 6 POCSO Act. Though, it is a trite law that ordinarily the High Courts must show restraint in quashing FIRs involving offences under Section 376 IPC and Section 6 POCSO Act but in peculiar facts and circumstances, the High Courts can quash FIRs in which offences like Section 376 IPC and Section 6 POCSO Act have been involved. In this regard, reference may advantageously be made to a decision of 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 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*

[1] 2022 SCC OnLine Del 4809.

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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 that since the petitioner and respondent no. 2 are now married and living together as husband and wife, and are also blessed with one child, the analogy of ***Kundan*** *(supra)* will apply to the facts of the present case.

10. In view of the fact that the parties have arrived at a settlement, no useful purpose will be served in continuing the proceedings. It is, thus, in the interest of justice that the present FIR and all the other proceedings emanating therefrom be quashed.

11. Consequently, the petition is allowed and the FIR No.1108/2023 under Section 376 IPC and Section 6 POCSO Act registered at P.S. Sultanpuri, Delhi alongwith all other proceedings emanating therefrom, is quashed.

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12. The petition stands disposed of in the above terms.

VIKAS MAHAJAN, J

FEBRUARY 18, 2025
N.S. ASWAL

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