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

+ **CRL.M.C. 3508/2024**

MOHD GUFRAN

.....Petitioner

Through: **Mr. Mrigank Shankar, Adv. with**
petitioner in person.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: **Mr. Nawal Kishore Jha, APP for State**
with **SI Kajal Tyagi PS Paharganj**

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

14.01.2025

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1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No. 0180/2024 under Sections 376/313 IPC registered at P.S. Paharganj and all consequential proceedings emanating therefrom, on the ground that parties have arrived at a settlement and are living together as a married couple.
2. Notice in the petition was issued *vide* order dated 07.05.2024 and the State was directed to file a status report.
3. The brief facts of the case, as noted from the record, are that the present FIR came to be registered against the petitioner on 09.03.2024 upon a complaint filed by the respondent no.2 alleging that on the pretext of false promise to marry, the petitioner on many occasions had sexual intercourse with her.
4. The learned counsel for the petitioner submits that during the pendency of proceedings, the parties arrived at a settlement, terms whereof were



reduced in writing in the form of Mutual Agreement dated 23.03.2024, which is annexed as Annexure D to the present petition. In view of the said settlement, the petitioner was enlarged on bail *vide* order dated 10.04.2024 passed by the learned ASJ and thereafter, on 16.04.2024 he got married to respondent no.2.

5. The petitioner, as well as, respondent no. 2, are present in Court and they have been identified by their respective counsel and also by the Investigating Officer SI Kajal Tyagi PS Paharganj.

6. The respondent no.2, on a query posed by the Court, affirms the factum of settlement and her marriage with the petitioner. She further states that both of them are living together as husband and wife and she has no objection in case the FIR is quashed.

7. In the present case, one of the offences which is alleged against the petitioner pertains to Section 376 IPC. Though, it is a trite law that ordinarily the High Courts must show restraint in quashing FIRs for offences under Section 376 IPC but in peculiar facts and circumstances, the High Courts can quash FIRs in which offences like Section 376 IPC have been involved. In this regard, reference may advantageously be made to a decision of Hon'ble Supreme Court in '**Kapil Gupta v. NCT of Delhi**¹' wherein it was held as under:

“12. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration

¹ (2022) SCC OnLine SC 1030



as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

13. The Court has further held that it is also relevant to consider as to what is the stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.

14. The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent 2 is a young lady of 23 years. She feels that going through trial in one case, where she is a complainant and in the other case, wherein she is the accused would rob the prime of her youth. She feels that if she is made to face the trial rather than getting any relief, she would be faced with agony of undergoing the trial.

15. In both the cases, though the charge-sheets have been filed, the charges are yet to be framed and as such, the trial has not yet commenced. It is further to be noted that since Respondent 2 herself is not supporting the prosecution case, even if the criminal trial is permitted to go ahead, it will end in nothing else than an acquittal. If the request of the parties is denied, it will be amounting to only adding one more criminal case to the already overburdened criminal courts.

16. In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.”

(emphasis supplied)



8. Coming back to the facts of the present case, the petitioner and respondent no. 2 are now married and are living together as husband and wife and the case is also at the initial stage, therefore, having regard to these peculiar facts and circumstances, no useful purpose will be served in continuing the proceedings, rather the same would create further acrimony between the parties. Further, since the complainant is not supporting prosecution case, it is likely to end in acquittal. Therefore, to secure the ends of justice it is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.

9. Consequently, the petition is allowed and the FIR No. 0180/2024 under Sections 376/313 IPC registered at P.S. Paharganj alongwith all other proceedings emanating therefrom, is quashed.

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

VIKAS MAHAJAN, J

JANUARY 14, 2025

N.S. ASWAL