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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 3668/2024**
BUMBUMPetitioner

Through: Mr. Bhuvneshwar Tyagi, Adv.

versus

STATE NCT OF DELHI AND ANRRespondents
Through: Mr. Hitesh Wali, APP for State with
ASI Om Prakash, PS. Sarai Rohilla.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER
19.02.2025

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1. The present petition has been filed under Section 482 CrPC seeking quashing of FIR No.564/2016 under Sections 363/366/376 IPC and Section 6 of POCSO Act registered at Police Station Sarai Rohilla and all consequential proceedings emanating therefrom on the ground that the parties have married each other and they have been blessed with two children.
2. Notice was issued in the present petition on 08.05.2024.
3. The learned APP submits that since the parties have arrived at a settlement, the State has no objection in case the FIR in question is quashed.
4. The petitioner (husband), as well as, respondent no. 2 (wife) are present in Court and they have been identified by their respective counsel, as well as, by the Investigating Officer ASI Om Prakash, PS. Sarai Rohilla.
5. The brief facts of the case are that the FIR came to be registered on the complaint of the father of the respondent no.2, alleging that her daughter has gone missing and he suspects that some unknown person has lured her away.



During the course of investigation, the respondent no.2/victim herself appeared along with her father and her children which led to insertion of charges under Sections 366 and 376 IPC read with Section 6 of POCSO Act in the chargesheet.

6. The learned counsel for the petitioner submits that prior to the registration of FIR, the marriage had been solemnised between the petitioner and the respondent no.2 and they were already blessed with two children.

7. He submits that since petitioner and respondent no.2 are married to each other and are blessed with two children, no purpose will be served in continuing the criminal proceedings.

8. The learned APP for the State, on instructions from the I.O, affirms the factum of marriage of the petitioner and the respondent no.2, as well as, the fact that they have been blessed with two children.

9. The respondent no.2, on a query posed by the Court, affirms the factum of her marriage with petitioner. She further affirms that both of them have also been blessed with two children and thus, she has no objection in case the FIR is quashed.

10. In the present case, the offences alleged against the petitioner are, *inter-alia*, 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 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:-

¹ 2022 SCC OnLine Del 4809.



“7. Ordinarily the High Courts must show restraint 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 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.”

11. Like the facts of **Kundan** (*supra*), the present case is also a case of romantic relationship. The petitioner and respondent no.2 have married each other, they are living together as husband and wife and have also been blessed with two children. Thus, the present case is squarely covered by the decision in **Kundan** (*supra*).

12. In view of the peculiar facts and circumstances of this case, no useful purpose will be served in continuing the proceedings, rather the same would



create further acrimony between them.

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

14. Consequently, the petition is allowed and the FIR No.564/2016 under Sections 363/366/376 IPC and Section 6 of POCSO Act registered at Police Station Sarai Rohilla alongwith all other proceedings emanating therefrom, is quashed.

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

16. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

FEBRUARY 19, 2025/dss