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

+ CRL.M.C. 4005/2024 & CrI. M.A. 15237/2024

ABHAY KUMAR CHAUBEY

.....Petitioner

Through: Mr. Vishal Arun Mishra, Mr. Vivek
Kumar Singh and Ms. Ruplai,
Advocates with petitioner in person.

versus

STATE OF NCT DELHI AND ANR

.....Respondents

Through: Mr. Nawal Kishore Jha, APP for the
State with SI Durga Gehlot, PS
Vasant Kunj North
Ms. Alka Singh and Mr. Shubham
Gupta, Advocates for R-2 with R-2 in
person.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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03.02.2025

1. The present petition has been filed under Section 482 Cr.PC seeking quashing of FIR No. 233/2023 under Sections 323/376/506 IPC read with Section 6 of POCSO Act, registered at Police Station Vasant Kunj North, New Delhi and all consequential proceedings emanating therefrom on the ground that the petitioner as well as respondent no. 2/victim have got married during the pendency of the present petition.
2. Notice was already issued *vide* order dated 17.05.2024.
3. The petitioner, as well as, respondent no.2/victim are present in Court and they have been identified by their respective counsel as well as by the Investigating Officer/SI Durga Gehlot, Police Station Vasant Kunj North,



New Delhi.

4. The case of the prosecution is that the petitioner had established physical relations with the respondent no. 2/victim on the false promise of marriage.

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

6. Respondent no. 2 who is present in Court, on a query posed by the Court, affirms the factum of marriage and states that she got married to the petitioner on 25.11.2024. She submits that their relation was always consensual and the FIR was got registered as the family of the petitioner was not agreeing to the marriage of the petitioner and respondent no. 2.

7. In this case, the conduct of the respondent no. 2 warrants action against her, however, considering the peculiar facts and circumstances that the respondent no. 2/victim is now happily married to the petitioner and they are staying together as husband-wife, this Court is refraining from taking any action.

8. Apt would it be to rely upon the decision dated 19.09.2024 passed by 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 Meghalya (Crl. Petition No. 63/2021), decided on 23.03.2022 by Hon'ble High Court of Meghalya.

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."

9. 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 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.

10. The decisions in **Sujit Kumar** (*supra*) and **Tarun Vaishnav** (*supra*)



squarely apply to the facts of the present case. The present case is also a case of romantic relationship where the petitioner and respondent no.2 got married during the pendency of the present proceedings and the FIR under consideration was registered as the family of the petitioner was not agreeable to the marriage of petitioner with respondent no. 2.

11. The respondent no.2, who is present court, on a query posed by the Court states that the present criminal case may be closed and the FIR be quashed.

12. Having regard to the peculiar circumstances that petitioner and respondent no. 2 are now married each other and living together as husband and wife, this court is of the opinion that the present petition deserves to be allowed to serve the ends of justice.

13. Consequently, FIR No. 233/2023 under Sections 323/376/506 IPC read with Section 6 of POCSO Act, registered at Police Station Vasant Kunj North, New Delhi and all consequential proceedings emanating therefrom is quashed.

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

VIKAS MAHAJAN, J

FEBRUARY 3, 2025
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