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

+ CRL.M.C. 4164/2024

JITENDRA KUMAR @ JEETU

.....Petitioner

Through: Mr. Raj Kumar, Advocate with
petitioner in person.

versus

STATE NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Utkarsh, APP for the State with
SI Suresh Kumar Meena, P.S. New
Usmanpur.

Respondent no. 2 and 3 in person
with Mr. Raj Kumar and Ms. Megha
Mahour, Advocates

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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27.01.2025

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.513/2019 under Sections 363/376 IPC and Section 6 of the POCSO Act registered at P.S. New Usmanpur, Delhi, and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.
2. The brief facts of the case are that the FIR under consideration was registered at at the instance of father of the victim, who is arraigned as respondent no.3 in the present petition, alleging that his minor daughter/respondent no.2 has gone missing and he suspects that she has been lured away by some unknown persons.
3. Learned counsel for the petitioner submits that during the pendency of



the proceedings, respondent no.2 got married to the petitioner on 02.07.2020 after attaining the age of majority. He submits that the petitioner as well as respondent no. 2 are now blessed with three children and they, along with their children, are happily living together happily. He further submits that in case proceedings are allowed to be continued and FIR is not quashed, whole of their family shall be severely affected.

4. The petitioner, respondent no.2 (victim) and respondent no.3 (father of the victim) are present in Court and they have been identified by the Investigating Officer viz. SI Suresh Kumar Meena, P.S. New Usmanpur.

5. 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:-

“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.

¹ 2022 SCC OnLine Del 4809.



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."*

6. In this regard, reference may advantageously be made to a decision of the Supreme Court in ***Kapil Gupta v. State of NCT of Delhi, (2022) SCC OnLine SC 1030*** 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 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.”

7. Coming back to the facts of the case, the petitioner and respondent no.2 are now married and living together as husband and wife since the year 2020, and are also blessed with three children. The trial is at the initial stage. In case the trial continues the family, will be adversely affected. Further, since the complainant is not supporting prosecution case, it is likely to end in acquittal. The present case is thus, squarely covered by the decisions in ***Kundan*** (*supra*) and ***Kapil Gupta*** (*supra*) and 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.

8. Consequently, the petition is allowed and the FIR No.513/2019 under Sections 363/376 IPC and Section 6 of the POCSO Act registered at P.S. New Usmanpur, Delhi, along with all other proceedings emanating therefrom, is quashed.

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

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

VIKAS MAHAJAN, J

JANUARY 27, 2025

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