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

+ **W.P.(CRL) 2831/2023**

**GYANEE ZAIL VERMA & ANR.**

.....Petitioners

Through: Ms. Chitra Goswami, Advocate.

versus

**THE STATE AND ORS THROUGH SHO**

.....Respondents

Through: Mr. Rahul Tyagi, ASC (Crl.) for State  
with Mr. Mathew M. Philip, Mr.  
Sangeet Sibou and Mr. Aniket Kumar  
Singh, Advocates with SI Durgesh,  
PS Dwarka North.  
Mr. Amitabh Kumar, Advocate for  
R-2.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

**28.03.2025**

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1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>1</sup> (erstwhile Section 482 of the Code of Criminal Procedure, 1973<sup>2</sup>) seeks quashing of FIR No. 75/2021<sup>3</sup> dated 9<sup>th</sup> February, 2021 registered under Sections 376 of the Indian Penal Code, 1860<sup>4</sup> at P.S. Dwarka North and subsequent proceedings arising there from. A chargesheet has been filed subsequently adding sections 506/34 of IPC and 4

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<sup>1</sup> "BNSS"

<sup>2</sup> "Cr.P.C."

<sup>3</sup> "Impugned FIR"

<sup>4</sup> "IPC"



of the Protection of Children from Sexual Offences Act, 2012.<sup>5</sup>

2. The Impugned FIR was registered in 2021 on the complaint of Respondent No. 2, alleging that Petitioner No. 1 had established physical relations with her under the pretext of marriage, approximately three years prior to the filing of the complaint. According to the Complainant, the alleged incident took place two to three days before Holi in the year 2018. This formed the basis for registration of the FIR under Section 376 of the Indian Penal Code. During the course of investigation, the Complainant's school records were verified, which reflected her date of birth as 5<sup>th</sup> March, 2000. Based on her age at the time of the alleged incident, additional offences under Sections 506 and 34 IPC and Section 4 of the Protection of POCSO Act were invoked. Petitioner No.2 is the sister of Petitioner No.1 and as per the allegations in the FIR, Petitioner No.2 had objected to the marriage and allegedly threatened to kill Respondent No.2 and her mother.

3. During the pendency of proceedings arising from the Impugned FIR, Petitioner No. 1 and Respondent No. 2 solemnised their marriage on 14<sup>th</sup> October, 2022, in the presence of their respective family members. A copy of the marriage certificate has been placed on record and its authenticity has been duly verified by the State.

4. In light of the subsequent developments, the parties state that they have resolved their personal differences and arrived at an amicable settlement. Petitioner No. 1 and Respondent No. 2 have appeared before the Court through video conferencing and jointly request that the FIR and all consequential proceedings be quashed. Both of them have been identified by their respective counsel as well as the Investigating Officer. Respondent No.

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<sup>5</sup> "POCSO"



2 affirms that she is now happily married to Petitioner No. 1, and that the misunderstanding which gave rise to the FIR has been addressed between the parties. She confirms that she is currently residing with Petitioner No. 1 at her native place and has no objection to the FIR being quashed. An affidavit to this effect has also been filed by Respondent No. 2 and is on record.

5. Mr. Rahul Tyagi, ASC for the State, opposes the quashing of the FIR on the ground that the allegations levelled are serious and offences under 376 of the IPC and 4 of the POCSO are grave in nature.

6. The Court has heard the submissions made on behalf of both the parties. Respondent No.2, on being asked, states that she was in a consensual relationship with the Petitioner. She states that the present FIR was registered on a misunderstanding, and she has no objection if the same is quashed.

7. Notably, the offences in question are non-compoundable, and Petitioner No. 1 is implicated under Section 4 of the POCSO Act, which is a serious and heinous offence. The Court is conscious that such charges cannot ordinarily be quashed merely on the basis of a settlement between the parties. Offences of this nature are not purely personal in character, rather, they are considered offences against society at large. However, this Court, in appropriate and exceptional circumstances, has exercised its inherent jurisdiction to quash criminal proceedings, where the factual matrix and the interest of justice so warranted.

8. At this juncture, it is relevant to note that this Court, in *Ajay Kumar*



***Paswan v. State of NCT of Delhi & Ors.***<sup>6</sup> and ***Kundan & Anr. v. State & Ors.***<sup>7</sup> has, while exercising jurisdiction under Section 482 of the CrPC, quashed FIRs involving allegations under Section 376 IPC and Section 6 of the POCSO Act, where the parties had subsequently married and arrived at a genuine settlement. Similarly, a Coordinate bench of this Court in CRL. M.C. 4168/2022 titled as ***Sonu @ Sunil v. State of NCT of Delhi*** vide judgment dated 26<sup>th</sup> April, 2024 observed as under :—

*“26. Of late, however, the Courts are faced with petitions where children, who are about to attain the age of majority, in ignorance of the statutory prohibitions and restrictions and consequences, in the name of love, commit acts which would otherwise amount to offence under the provisions of the Child Marriage Act, POCSO Act, and the IPC. Though, being minor, their consent is immaterial, however, factually it is there. This situation makes the Courts face with two consequences, either to go strictly by the mandate of the statute and convict the boy and impose punishment on him, which is rather severe in these statutes, or to exercise its power under Section 482 of the Cr. P.C. to protect the otherwise innocent children/adult by quashing the criminal proceedings. The Courts when faced with such a dilemma, has been adopting the route of exercising its power under Section 482 of the Cr. P.C., to quash such criminal proceedings where it finds that the girl was nearing the age of majority; had gone with the boy of her own free will (though it may be immaterial in law); is happily living with the boy, either in matrimony or otherwise, after attaining the age of majority; and in some circumstances where such relationship has also resulted in children being born. The Court, in such circumstances, is persuaded to save the lives of such an accused, rather than to make him undergo trial and eventual punishment, which would not only ruin innocent lives of the parties to such a relationship, but may be, also of the children that are born therefrom. In this regard, apart from the judgments that have been cited by the learned Amicus, I may also refer to the judgment of the Supreme Court in Kapil Gupta v. State of NCT of Delhi, 2022 SCC OnLine SC 1030, wherein the Supreme Court, while quashing an FIR and consequential proceedings where the accused had been charged with offence under Section 376 of the IPC, observed as under:—*

*“13. 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*

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<sup>6</sup> CRL.M.C. 3203/2022

<sup>7</sup> CRL.M.C. 27/2022



*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.*

*14. The Court has further held that it is also relevant to consider as to what is 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.”*

9. In view of the above, the peculiar facts of the present case merit close and careful consideration. It is relevant to note that Petitioner No. 1 and Respondent No. 2 solemnised their marriage on 14<sup>th</sup> October, 2022, and are presently residing together peacefully. Considering this subsequent development, the allegation that physical relations were established under a false promise of marriage no longer survives in the same form. Respondent No. 2, who has appeared before the Court *via* video conferencing, has voluntarily stated that she wishes to put a quietus to the matter, without any undue influence, coercion, or pressure. She confirms that the settlement is a product of her own free will. It is also pertinent that, as on the date of the alleged incident, Respondent No.2 was merely three days short of attaining the age of majority, an aspect verified by Mr. Rahul Tyagi, ASC for the State. Additionally, it is not the prosecution's case that the physical relationship was non-consensual in nature or involved criminal force. Rather, the allegation rests on a purported promise to marry, which given the subsequent solemnisation of marriage between the parties appears to have been a misunderstanding that has since been resolved.

10. In the peculiar circumstances of the present case, the possibility of the



FIR culminating in a conviction appears remote, particularly as Respondent No. 2 has unequivocally expressed her unwillingness to pursue the matter any further. In the considered view of the Court, allowing the prosecution to continue would serve no useful purpose and would only prolong unnecessary litigation. Quashing the proceedings, on the other hand, would advance the cause of justice and restore peace between the parties. Accordingly, this Court is of the view that the continuance of criminal proceedings is neither warranted nor expedient.

11. Accordingly, the Impugned FIR No. 75/2021 and all consequential proceedings arising therefrom are hereby quashed.

12. The present petition is allowed in the aforesaid terms.

**SANJEEV NARULA, J**

**MARCH 28, 2025/PB**