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

+ CRL.M.C. 6721/2024

RAJU RAJPUT

.....Petitioner

Through: Ms. Gayatri Nandwani, Ms. Mudita Sharda and Mr. Adrian Abbi, Advs. along with petitioner.

versus

STATE OF NCT OF DELHI & ORS.Respondents

Through: Ms. Kiran Bairwa, APP with S.I. Vijay, P.S. Kalkaji, Delhi.
Ms. Naiem J. Heena, Adv. for R-2 & 3 along with R-2 & 3.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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29.01.2025

1. The present petition has been filed under Section 528 of BNSS, 2023 seeking quashing of FIR No.848/2021 registered under Sections 363/366/366A/376 IPC and Section 6 of POCSO Act at Police Station Kalkaji, New Delhi and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.
2. Issue notice. The learned APP appearing on behalf of the State, as well as, the learned counsel appearing on behalf of the respondent nos.2 and 3 accept notice.
3. The case of the prosecution in brief is that respondent no.3 met the petitioner near his *rehri*/stall as he used to work there which was located opposite to *rehri*/stall run by the mother of respondent no.3 and they gradually developed liking for each other and wanted to get married. The respondent no.3 one day did not come back home which led to the



registration of the aforesaid FIR at the instance of the respondent no.2 (mother of the victim).

4. During the pendency of proceedings, the parties are stated to have married each other and are blessed with two children.

5. The learned counsel appearing on behalf of the petitioner submits that quashing of the present FIR is being sought on the peculiar facts and circumstances of the present case, where the petitioner, as well as, the respondent no.3/victim have married each other and have also been blessed with two children.

6. The petitioner, as well as, respondent nos.2 and 3 are present in court and they have been identified by their respective counsel, as well as, by the Investigating Officer i.e. S.I. Vijay, P.S. Kalkaji, New Delhi.

7. At this stage apt would it be to refer to the judgment 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 Meghalaya* (Crl. Petition No. 63/2021), decided on 23.03.2022 by Hon'ble High Court of Meghalaya.

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."*

8. In ***Tarun Vaishnav*** (*supra*) as well, the Rajasthan High Court on similar facts had quashed the FIR was under Section 376 IPC read with Sections 3 and 4 of POCSO Act though the complainant was a minor and she had married the accused and they were blessed with a child. This Court in ***Sujit Kumar*** (*supra*) has recorded that SLP filed against the decision in ***Tarun Vaishnav*** (*supra*) also came to be dismissed by the Hon'ble Supreme Court.

9. The decisions in ***Sujit Kumar*** (*supra*) and ***Tarun Vaishnav*** (*supra*) squarely apply to the facts of the present case. Like the said two decisions, the present is also a case of romantic relationship where the petitioner and respondent no.3 married despite the fact that the respondent no.3 had not attained legal age of marriage.

10. The respondent no.3, who is present in Court, on a query posed by the Court, affirms the factum of her marriage with the petitioner and further states that they have been blessed with two children. She states that she has attained the age of majority. She also states that she does not want to prosecute the present matter. She further states that apart from the petitioner,



there is no one to look after her and their children and she thus, urges the Court that the FIR may be quashed.

11. Likewise, the respondent no.2, who is the mother of the respondent no.3, also states that the present FIR was registered in undue haste without verification of facts.

12. The IO, who is present in court, also verifies the fact that the respondent no.3 (victim) has attained the age of majority.

13. Having regard to the aforesaid peculiar circumstances, this court is of the opinion that the present petition deserves to be allowed to serve the ends of justice.

14. Consequently, the petition is allowed and the FIR No.848/2021 registered under Sections 363/366/366A/376 IPC and Section 6 of POCSO Act at Police Station Kalkaji, New Delhi along with 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

JANUARY 29, 2025

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