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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 8446/2024 & CRL.M.A. 32230/2024**
SUMIT KUMAR MANDALPetitioner

Through: Mr. Vikramaditya Singh, Adv. with
petitioner in person.

versus

THE STATE OF N.C.T OF DELHI THROUGH SHO, PS
INDERPURI & ORS.Respondents

Through: Mr. Aman Usman, APP for State with
SI Ruby PS Inder Puri, Delhi
Mr. Shubham Sharma, Adv. for R-2
and R-3 with respondent nos. 2 and 3
in person.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER
24.02.2025

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1. The present petition has been filed under Section 528 BNSS, 2023 seeking quashing of FIR No.97/2017 under Sections 363/366/376 IPC and Section 6 of the POCSO Act registered at P.S. Inder Puri and all consequential proceedings emanating therefrom on the ground that petitioner and respondent no.2 (victim) have married each other and have also been blessed with three children.
2. Issue notice. The learned APP appearing on behalf of the State accepts notice.
3. The petitioner, as well as, the respondent nos.2 (victim) and 3 (father of respondent no.2/complainant) are present in court and they have been



identified by the their respective counsel, as well as, by the Investigating Officer i.e. SI Ruby PS Inderpuri, Delhi.

4. The brief facts of the case are that the FIR under consideration was registered 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.

5. Learned counsel for the petitioner submits that during the pendency of the criminal proceedings, respondent no.2 got married to the petitioner on 01.10.2018 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 are happily living together. 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.

6. On a query posed by the Court, the respondent no.2 states that she is presently aged about 24 years. This fact is also affirmed by the learned APP on instruction from the IO. The father of the respondent no.2 at whose instance the FIR came to be registered also states that he does not wish to prosecute the criminal proceedings.

7. 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 restrain 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.”

1. Like the facts of **Kundan** (*supra*), the present case is also a case of romantic relationship. The petitioner and respondent no.2 are now married and living together as husband and wife since 01.10.2018 and they are also blessed with three children. The present case is thus, squarely covered by the

¹ 2022 SCC OnLine Del 4809.



decision in ***Kundan*** (*supra*). Therefore, 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.97/2017 under Sections 363/366/376 IPC and Section 6 of the POCSO Act registered at P.S. Inder Puri, 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

FEBRUARY 24, 2025

N.S. ASWAL