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

+ CRL.M.C. 8669/2024

MOHD VAIS @ UVESH

.....Petitioner

Through: Mr. Alamgir and Mr. Naushad Ali,
Advocates with petitioner in person.

versus

THE STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Pradeep Gahlot, APP for State
with SI Munfaij and ASI Vikender,
PS Jamia Nagar
M. S. Akbar Advocate for respondent
No.2 with respondent no. 2 in person.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

13.01.2025

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1. The present petition has been filed under Section 528 BNSS, 2023 seeking quashing of FIR No. 133/2020 under Sections 376/363/366 IPC read with Section 6 POCSO Act, registered at Police Station Jamia Nagar, New Delhi, and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.
2. The notice was issued by this Court *vide* order dated 05.11.2024 with a direction to the State to file a status report. The status report is on record.
3. Learned counsel for the petitioner submits that during pendency of the proceedings, the victim had appeared before the learned Trial Court and had stated that she wishes to marry the petitioner.
4. The attention of the Court is drawn to the order dated 22.03.2021



passed by the learned ASJ whereby bail was granted to the petitioner having regard to the fact that the victim had supported the bail application and had stated that the relationship between her and the petitioner was consensual and she was more than 18 years old at that relevant time.

5. He submits that after the bail was granted to the petitioner, the petitioner married the respondent no. 2/victim and they have also been blessed with two children. This position is not disputed by the learned APP, on instructions from the IO, who is present in the Court. The same position is reiterated by the learned counsel appearing for the respondent no. 2.

6. The parties are present in Court and they have been identified by their respective counsel, as well as, by the I.O./ SI Munfaij and ASI Vikender, PS Jamia Nagar, New Delhi.

7. The respondent no. 2, who is present in Court, on a query posed by the Court, affirms the factum of settlement and states that she has no objection in case the aforesaid FIR is quashed. She also states that she has no one else to take care and presently she is happily residing with the present petitioner.

8. In the present case, the offences invoked against the petitioner are also under Section 376 IPC as well as Section 6 of the POCSO Act. Though, it is a trite law that ordinarily the High Courts must show restraint in quashing FIRs for offences under Section 376 IPC and the POCSO Act but in peculiar facts and circumstances, the High Courts can quash FIRs in which offences like Section 376 IPC have been involved. In this regard, reference may advantageously be made to a decision of 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.

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.”

9. Needless to say, since the petitioner and respondent no. 2 are married and they are living together as husband and wife and have also been blessed with two children, the analogy of **Kundan** (*supra*) will apply to the present case.

¹ 2022 SCC OnLine Del 4809.



10. In view of the peculiar facts and circumstances of the present case, no useful purpose will be served in continuing the proceedings, rather the same would create further acrimony between them.

11. It is, thus, in the interest of justice that the present FIR and all the other proceedings emanating therefrom be quashed.

12. Consequently, the petition is allowed and the FIR No. 133/2020 under Sections 376/363/366 IPC read with Section 6 POCSO Act, registered at Police Station Jamia Nagar, New Delhi alongwith all other proceedings emanating therefrom, is quashed.

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

VIKAS MAHAJAN, J

JANUARY 13, 2025
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