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

+ CRL.M.C. 9383/2024

MD MUMTAJ

.....Petitioner

Through: Mr. Mohd. Rashid and Mr. Raunak  
Satpathi, Advs.

versus

THE STATE NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Utkarsh, APP for State with ASI  
Om Prakash, P.S. Sarai Rohilla,  
Delhi.  
Mr. Shabhat Hussain, Adv for R-2.

**CORAM:**

**HON'BLE MR. JUSTICE VIKAS MAHAJAN**

**ORDER**

**23.01.2025**

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1. The present petition has been filed under Section 528 of BNSS, 2023 seeking quashing of FIR No.164/2021 registered under Sections 363/376 IPC and Section 6 of POCSO Act at Police Station Sarai Rohilla, Delhi and all consequential proceedings emanating therefrom on the ground that during pendency of criminal proceedings, petitioner and respondent no.2/victim have married each other.
2. Notice in the petition was issued *vide* order dated 02.12.2024.
3. The brief facts of the case are that the aforesaid FIR was registered at the instance of the respondent no.3 i.e. father of victim alleging that his daughter has gone missing and he suspects that his daughter has been lured away by some unknown person.



4. The learned counsel appearing on behalf of the petitioner submits that quashing of the present FIR is being sought on peculiar facts and circumstances surrounding the present case, where the petitioner/accused, as well as, the respondent no.2/victim have married each other and they have also been blessed with a child.

5. On the other hand, the learned APP also apprises the Court that in the statement of the victim recorded under Section 164 CrPC, she has exonerated petitioner of the allegations under Section 376 IPC and Section 6 of POCSO Act. In her statement, she had further stated that she had gone with the petitioner on her own volition and without any threat or pressure from the petitioner.

6. The petitioner and respondent no.2/victim are present in Court and they have been identified by their respective counsel, as well as, by the Investigating Officer i.e. ASI Om Prakash, P.S. Sarai Rohilla, Delhi.

7. On a query posed by the Court, respondent no.2 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 of her and their child. She states that presently she is happily residing with the present petitioner.

8. In the present case, two of the offences which are alleged against the petitioner pertain to 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 peculiar facts and circumstances, the High Courts can quash FIRs in which offences like Section 376 IPC and Section 6 POCSO Act 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.**<sup>1</sup>' 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."*

9. Needless to say, since the petitioner and respondent no. 2 are now married and living together as husband and wife, and are also blessed with a child, the analogy of **Kundan** (*supra*) will apply to the facts of the present case.

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<sup>1</sup> 2022 SCC OnLine Del 4809.



10. In view of the aforesaid peculiar facts and circumstances, no useful purpose will be served in continuing the proceedings. It is, thus, in the interest of justice that the present FIR and all the other proceedings emanating therefrom be quashed.

11. Consequently, the petition is allowed and the FIR No.164/2021 registered under Sections 363/376 IPC and Section 6 of POCSO Act at Police Station Sarai Rohilla, Delhi along with all other proceedings emanating therefrom, is quashed.

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

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

**VIKAS MAHAJAN, J**

**JANUARY 23, 2025**

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