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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 10026/2024**

BIJENDER MAHTO

.....Petitioner

Through: Mr. Vikas Kumar, Advocate along
with petitioner in person.

versus

STATE NCT OF DELHI & ANR.

.....Respondent

Through: Mr. Digam Singh Dagar, APP for the
State with W/SI N. Tiamenla, PS
Geeta Colony
Ms. Sampanna Pani, Advocate for R-
2 with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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15.01.2025

CRL. M.A. 934/2025 (exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL. M.A. 933/2025 (early hearing)

3. For the reasons mentioned in the application, the same is allowed.
4. The application is disposed of.

CRL.M.C. 10026/2024

5. The present petition is taken up for disposal with the consent of the parties today itself.
6. The present petition has been filed under Section 528 BNSS, 2023 seeking quashing of FIR No. 381/2020 under Sections 363/366/376 IPC read



with Section 6 POCSO Act, registered at Police Station Geeta Colony, Delhi and all the proceedings emanating therefrom on the ground that the parties have arrived at a settlement.

7. Notice in the present petition was issued by this Court *vide* order dated 20.12.2024.

8. The brief facts of the case are that the FIR under consideration came to be registered against the petitioner on a missing complaint made by the mother of respondent no.2/prosecutrix alleging that her minor daughter has gone missing.

9. Learned counsel appearing for the petitioner submits that during pendency of the present petition, the respondent no. 2 has attained the age of majority. He submits that on 25.07.2020, the petitioner, as well as, the respondent no.2 got married to each other and they have been blessed with two children.

10. The parties are present in Court and they have been identified by the I.O/ W/SI N. Tiamenla, PS Geeta Colony, Delhi.

11. Learned APP appearing for the State, on instructions from the IO, who is present in Court, affirms the factum of settlement, as well as, the factum of marriage having been taken place between the petitioner and respondent no. 2. He has further affirmed that the couple have two children.

12. On a query posed by the Court, respondent no. 2, also affirm the factum of her marriage with the petitioner. She further affirms that she has been staying with the petitioner ever since her marriage and states that they have also been blessed with two children. She 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 children and presently, she is happily residing



with the petitioner.

13. 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.**²' 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

² 2022 SCC OnLine Del 4809.



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.”

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

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

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

17. Consequently, the petition is allowed and the FIR No. 381/2020 under Sections 363/366/376 IPC read with Section 6 POCSO Act, registered at Police Station Geeta Colony, Delhi, alongwith all other proceedings emanating therefrom, is quashed.

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

19. Accordingly, the next date of hearing i.e. 04.04.2025 stands cancelled.

VIKAS MAHAJAN, J

JANUARY 15, 2025/‘rs’