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

+ **CRL.M.C. 383/2025**

VIJAY KUMAR & ORS.

.....Petitioners

Through: Mr. Mohit Sharma and Mr. Kartik Saini, Advocates with petitioners in person.

versus

STATE GOVT. OF NCT OF DELHI AND ANR.Respondents

Through: Mr. Raghuinder Verma, APP for the State with SI Teena, PS: Prem Nagar and SI Pooja, PS: Dwarka North
Mr. Sanjay Shah, Advocate for R-2 with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

10.03.2025

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1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the petitioners seeking quashing of FIR No.92/2024 registered under *Section 376* Indian Penal Code, 1860, read with *Sections 6/21* Protection of Children from Sexual Offences Act, 2012 and *Section 10* Prohibition of Child Marriage Act, 2006, at P.S. Dwarka North, Delhi and all other proceedings emanating therefrom.

2. The present petition seeks quashing of FIR No.92/2024 in peculiar circumstances, more so, since the petitioner no.1 is the husband of respondent no.2/ prosecutrix and the petitioner nos.2 and 3 are the father

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and mother of the respondent no.2/ prosecutrix respectively. As per facts, the marriage between the petitioner no.1 and respondent no.2/ prosecutrix was solemnized on 15.05.2023, post which they are residing in their matrimonial home. Thereafter, on account of being nine months pregnant and undergoing labour, the respondent no.2/ prosecutrix was admitted to Dada Dev Hospital on 20.02.2024, where she delivered a baby boy, Krishna Das on 29.02.2024. It was thereafter that the present FIR was registered on 01.03.2024 at the instance of Sakhi-One stop Centre.

3. Though, notice had not been issued to the respondent no.2/ prosecutrix, she appears before this Court in person today and supports the case of the petitioners. Upon enquiry by this Court, she submits that she has been happily residing with the petitioner no.1 since the solemnization of their marriage on 15.05.2023 and that they have also since been blessed with a baby boy on 29.02.2024.

4. Learned Additional Public Prosecutor (APP) for the State has handed over a copy of the Status Report, which is taken on record.

5. Learned APP, relying upon the Status Report, submits that since the alleged offence is of a heinous nature as also the respondent no.2/ prosecutrix was a minor at the time of her marriage and was not legally capable of giving consent hence, the present petition should not be allowed, and the FIR should not be quashed.

6. However, the learned APP is not in a position to deny that the respondent no.2/ prosecutrix was in a consensual relationship with the petitioner no.1 and that being the legally wedded wife of the petitioner no.1 she has been continuously and uninterruptedly residing with him since the past almost two years. Not only that, thereafter there has since



been a new addition in the family as they have been blessed with a baby boy as well.

7. This Court has heard the learned counsel for the parties and perused the documents on record.

8. As recorded hereinbefore, the respondent no.2/ prosecutrix has categorically submitted that she has been happily residing with the petitioner no.1 since the solemnization of their marriage on 15.05.2023 and that they have also since been blessed with a baby boy on 29.02.2024. Also, in support of the respondent no.2/ prosecutrix, her father Mr. Sanjay Shah, who is also present in Court, has submitted that his daughter, the respondent no.2/ prosecutrix, is happily residing with the petitioner no.1 and that they have been blessed with a baby boy. In fact, he also submits that he and his wife are both happy with the present circumstances and have no complaint and/ or issue with the petitioner no.1. Further, though the mother of the respondent no.2/ prosecutrix, who is the petitioner no.3 herein, is not present in Court due to her fractured leg, however, she has filed her affidavit in support of the present petition, which is also on record.

9. Furthermore, this Court finds that Co-ordinate Benches of this Court in ***Kundan & Anr. vs. State and Ors.*** 2022 SCC OnLine Del 4809, ***Rihan @ Noor Mohammad v. The State & Anr.*** 2023:DHC:5271 and ***Amit Kumar vs State of NCT of Delhi & Ors.*** 2023:DHC:8957, under similar circumstances have quashed FIRs with similar facts. Further, the High Court of Rajasthan in ***Tarun Vaishnav v. State of Rajasthan through PP & Anr.*** 2022 SCC OnLine Raj 2237, which has attained finality as challenge qua the same, vide SLP (Crl.) No. 1890/2023 has also



been dismissed by the Hon'ble Supreme Court vide order dated 03.03.2023 therein.

10. Interestingly, the decision in *Tarun Vaishnav* (supra) was rendered under similar circumstances as involved in the present one, as the respondent no.2/ prosecutrix therein was also a minor and had delivered a baby in the Hospital as also that an FIR was lodged pursuant thereto. In fact, as per the statement of the respondent no.2/ prosecutrix therein, she was in a romantic relationship with the accused therein. The High Court of Rajasthan, after considering the facts therein, especially the factum that since the petitioner therein would have to face and suffer incarceration for at least 10 years if, the FIR was not quashed as also since there was a mistake/ blunder due to an immature act of uncontrolled emotions of two individuals, quashed the FIR against the accused/ petitioner therein.

11. Therefore, bearing in mind the factual matrix as well as the peculiar circumstances involved herein, more so, since the present is one of adolescence love which has now transformed in the petitioner no.1 and the respondent no.2/ prosecutrix not only entering into marriage voluntarily and without any pressure or opposition from anyone and happily residing together but also resulting in birth of a baby boy as also the principle of law laid down in the aforesaid judgments, this Court is of the considered opinion that there is no impediment in quashing the present FIR.

12. Additionally, this Court is also of the considered opinion that in the present circumstances no purpose would be served in keeping the prosecution alive in the present FIR, particularly, since it may tantamount to having huge ramifications on the mental, physical, emotional and financial well-beings of the lives of the petitioner no.1, the respondent



no.2/ prosecutrix as also the newly born baby boy.

13. Accordingly, though the learned APP objects to the present petition being allowed and the FIR being quashed, since the respondent no.2/ prosecutrix is now major in age and has been blessed with a baby boy out of her wedlock with the petitioner no.1 and that they are happily residing together voluntarily and without any complaint(s) of any kind against the petitioner no.1 since then, balancing the ends of justice and with a better future in sight for them, demands that the present petition be allowed and in consequence FIR No.92/2024 registered under Section 376 IPC, read with Sections 6/21 POCSO Act, Section 10 Prohibition of Child Marriage Act, 2006 at P.S. Dwarka North, Delhi alongwith all proceedings emanating therefrom are quashed.

14. Needless to say, the observations and findings arrived at by this Court have only been made upon consideration of the extremely rare and exceptional circumstances involved herein and thus they shall not be construed as a precedent. In any event, the cases of the present nature are to be adjudicated individually upon the facts and circumstances involved therein.

15. Accordingly, the petition, alongwith the pending applications, if any, stands disposed of.

SAURABH BANERJEE, J

MARCH 10, 2025/So