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

Decided on: 11.02.2021

+ **CRL.M.C. 389/2021 & CrI.M.A. 2060/2021**

ASHISH @ ASHISH KUMAR SAGAR Petitioner

Through: Advocate (appearance not given)

Versus

THE STATE & ANR. Respondents

Through: Mr. G.M.Farooqui, Additional Public
Prosecutor for State with SI Smriti
Gupta
Respondent No.2/complainant in
person

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T

1. Vide this petition, petitioner is seeking quashing of FIR No. 330/2020, under Sections 376/506 IPC, registered at police station Shakarpur, Delhi.
2. Notice issued.
3. Mr. G.M.Farooqui, learned Additional Public Prosecutor for State, accepts notice and submits that petitioner and respondent No.2/ prosecutrix is present in the Court and she has been identified by SI Smriti Gupta,

Investigating Officer of this case.

4. Learned counsel for petitioner submits the misunderstanding between petitioner and respondent No.2/prosecutrix has been resolved in terms of Compromise Deed dated 25.09.2020. He further submits that the marriage between petitioner and prosecutrix/respondent No.2 has been solemnized in Arya Samaj Mandir, Nakul Gali, Vishwas Nagar, Delhi on 25.09.2020 itself and they are happily living together as husband and wife. He next submits that respondent No.2/ prosecutrix does not wish to pursue the proceedings arising out of FIR in question and her affidavit dated 06.02.2021 to this effect is placed on record.

5. Learned Additional Public Prosecutor for State on instructions from Investigating Officer of this case submits that the factum of marriage between petitioner and respondent No.2/prosecutrix stands verified.

6. Learned counsel for petitioner submits that to enable the parties to lead a happy married life, this petition deserves to be allowed.

7. In a somewhat similar circumstances, a Bench of Punjab and Haryana High Court in *CRM-M No.47266 of 2019, Pankaj @ Sikandar Kumar Vs. State of U.T., Chandigarh* and another, decided on 05.03.2020, while quashing the proceedings for the offences under Section 376 IPC, has

observed as under:-

“5. In normal circumstances, the Court would not entertain a matter when the non compoundable offences are heinous in nature and against the public. In the instant case, the offence, complained of is under Section 376 IPC, which is an offence of grave nature. In the eyes of law, the offence of rape is serious and non-compoundable and the Courts should not in ordinary circumstances interfere and quash the FIR that has been registered. However, there are always exceptions to the normal rules and certain categories of cases, which deserve consideration specially when it is a case of love affair between teenagers and due to fear of the society and pressure from the community one party alleges rape, cases where the accused and the victim are well known to each other and allegation of rape is levelled only because the accused refused to marry, as well as the age, educational maturity and the mental capacity, consequences of the same ought to be kept in mind when inclined to interfere.”

8. Although, as per the directions of the Hon’ble Supreme Court in ***Parbat Bhai Aahir and Ors. vs. State of Gujrat & Ors. (AIR 2017 SC 4843)***, the FIR should not be quashed in case of rape as it is a heinous offence, but when complainant/prosecutrix herself takes the initiative and states that she made the complaint due to some misunderstanding and now wants to give quietus to the misunderstanding which arose between her and the petitioner, in my considered opinion, in such cases, there will be no purpose in continuing with the trial. Ultimately, if such direction is issued, the result will be of acquittal in favour of the accused, but substantial public

time shall be wasted. A similar view was taken by this court in the case of *Danish Ali v. State and Anr. in CrI. M.C. 1727/2019*.

9. Taking into account the aforesaid facts and the fact that the petitioner and prosecutrix have already married on 25.09.2020, therefore, this Court is inclined to quash the present FIR as no useful purpose would be served in prosecuting petitioner any further.

10. For the reasons afore-recorded, FIR No. 330/2020, under Sections 376/506 IPC, registered at police station Shakarpur, Delhi and all other proceedings arising therefrom are quashed.

11. The order be uploaded on the website of this Court forthwith.

(SURESH KUMAR KAIT)
JUDGE

FEBRUARY 11, 2021

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