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

% *Date of decision: 01<sup>st</sup> August 2025*

+ CRL.M.C. 5178/2025, CRL.M.A. 22369/2025

RAJEEV KUMAR

.....Petitioner

Through: Ms. Komal and Mr. Aditya Arora,  
Advocates with applicant.

versus

STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for the  
State.  
Mr. Anirudh Sharma, Adv. with R-2.

**CORAM:**

**HON'BLE MR. JUSTICE ARUN MONGA**

**ARUN MONGA, J. (Oral)**

1. Petitioner, legally married to the prosecutix with a child born out of their relationship/wedlock, seeks quashing of an FIR No. 545/2023 dated 28.07.2023 lodged at the relevant time by his girlfriend, now wife, for the alleged offences under Section 376/366 of the IPC and Section 6 of POCSO Act, 2012.

2. The petitioner/husband (accused) is 22 years old, and the respondent No. 2/wife (prosecutrix) is 21 years old.

3. Facts of the case are rather peculiar. It is stated that in year 2020, the father of Respondent No. 2 for greed of money forcibly married her, then a minor (approx. 14 years old), to an elderly alcoholic man. Said marriage was *per se* illegal and *non est*. Be that as it may, after her mother's death, Respondent No. 2 returned to her maternal home, where she developed a



close relationship with the petitioner. In February 2022, they got married and moved to Delhi. The petitioner provided her with a safe environment. Later, her father forcibly retrieved her and took her back.

4. In July 2023, while pregnant, Respondent No. 2 again ran away from clutches of her father. She got to know that petitioner is in Karnal, Haryana, but failing to find him, she thus sought shelter in an ashram. The ashram authorities rather handed her over to the police, leading to the registration of the present FIR.

5. The chargesheet in the FIR was filed on 27.09.2023 and that is where the matter rests in the Trial Court now.

6. While the petitioner was being prosecuted, on the other hand, on 13.12.2024, prosecutrix- now his wife (complainant/respondent no 2) gave birth to their child. Subsequently, the petitioner and respondent no. 2 married each other at Arya Samaj on 13.02.2025. Hence this petition.

7. Learned counsel for the petitioner agrees that respondent No. 2 had faced abuse and harassment from her father and the petitioner merely provided her a safe refuge. The petitioner and respondent No. 2 are/were in a love relationship and later got married in accordance with law. The petitioner, being the sole breadwinner, had been supporting respondent No. 2 and the child.

7.1 It is thus urged that the prosecutrix/ complainant at the relevant time had, on her own volition, eloped from her maternal home in Bihar and married the petitioner. She then started living in Delhi. However, three months later, the father of the complainant again forcefully took her to Bihar when she was two months pregnant and threatened to kill her. She again fled



to Delhi to be with the Petitioner but could not find him and had to stay at Delhi Railway station.

7.2 In these circumstances, in course of the investigation, on 13.08.2023, the petitioner was arrested in the present matter. On 12.09.2024, this court granted regular bail to the petitioner. The petitioner has already undergone more than nine months of custody, which is a substantial punishment without there being any crime committed by him.

7.3 He points out that respondent No. 2, in her statement, has already clarified that her father falsified her date of birth in school records. She was in fact 18 years old at the time of the incident and thus no crime is committed. She has also affirmed that the relationship was consensual. Therefore, no criminal case can lawfully be sustained against the petitioner.

7.4 It is also submitted that respondent No. 2 has never held any grievance against the petitioner; rather, she has consistently expressed her desire to live with him peacefully. The petitioner alone is taking care of respondent No. 2 and their child, ensuring their safety and sustenance.

8. Learned APP opposes the quashing petition stating that any indulgence from this Court would give wrong signal to the society at large and promote illicit relationships. He thus seeks dismissal of the petition.

9. In the aforesaid backdrop, I have heard learned counsel for the petitioner and respondent no. 2 as well as perused the material available on record.

10. Parties are present in court and I have interacted with them. In response to a Court query, respondent No. 2 (prosecutrix) confirms that the relationship was consensual. The allegations under Sections 376/366 IPC and Section 6 of POCSO were made in a moment of misunderstanding and



heat at the instance of her father. She later realized her mistake, regrets it, and does not wish to press charges or proceed further, seeking instead to maintain peace and live happily with her husband i.e. the petitioner.

11. There is no allegation that the petitioner used force, deceit, or any exploitative means to induce the prosecutrix into a relationship or marriage. On the contrary, conscious and voluntary exercise of her right to choose her partner and a choice to be with the petitioner has been clearly expressed by her in course of the proceedings before this court.

12. The parties have since built a family unit. Continuing prosecution would disrupt their lives and harm the welfare of the child. It would serve no societal or public interest; rather, it would inflict unnecessary trauma on a consensual relationship that has now matured into a legal marriage.

13. Having seen the totality of the case, it appears that the petitioner and Respondent No. 2 were in a consensual relationship and are now married. Respondent No. 2 had previously suffered abuse and harassment at the hands of her father, whereas the petitioner only provided her with safety and support. Despite this, the petitioner has already spent over nine months in custody.

14. Respondent No. 2 has confirmed that she was 19 years old at the time of the incident. She candidly stated that her school records were falsified by her father, and she has unequivocally stated that the relationship was consensual. The petitioner is currently the sole provider for Respondent No. 2 and their child, and the continuation of criminal proceedings would inflict undue mental and financial hardship upon them.

15. Considering the factual matrix and the prosecutrix's own stance, further criminal proceedings would be an abuse of the process of law. The



prosecutrix is a consenting adult, and the relationship culminated in marriage. The ends of justice therefore warrant quashing the proceedings under Section 528 BNSS, in line with the principles laid down in *Gian Singh v. State of Punjab*.

16. Continuing prosecution would thus serve no meaningful purpose, as the chances of conviction are negligible and the very basis of the FIR appears unfounded and lacks any merit. The FIR appears to be a clear misuse of the criminal justice system, weaponized to settle personal scores and exert control over the prosecutrix's life choices. On the other hand, the prosecutrix herself has categorically stated that her father manipulated her date of birth in school records, falsely projecting her as a minor. In reality, she was 19 years old at the time of the alleged incident, a consenting adult exercising her choice. This strikes at the root of the prosecution's case under POCSO and Section 376 IPC, as the essential elements, minority, absence of consent, and sexual exploitation, are completely absent.

17. Notwithstanding, as above, the petitioner has already suffered over nine months of incarceration based on false and frivolous allegations and still facing the indignity of the allegations in the FIR, for which he is an under trial.

18. In the premise, quashing the proceedings, would protect the sanctity of marital life, prevent undue harassment, and uphold the couple's right to live peacefully and without stigma. This is thus an appropriate case for quashing the criminal proceedings to allow the couple to lead a dignified and harmonious life.

19. Accordingly, the present petition is allowed and the FIR No. 545/2023 dated 28.07.2023 lodged at Police Station Narela, Delhi for the

