

Suresh Kumar vs State GncT Of Delhi & Ors on 16 December, 2022

\$~33

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CRL.M.C. 4741/2022

SURESH KUMAR

..... Petition

Through: Mr. L.N. Rao & Mr S.R. Malik,
Advocates.

versus

STATE GNCT OF DELHI & ORS.

..... Responde

Through: Mr. N.S. Bajwa, APP for the
State with SI Kishor Prasad, PS
Defence Colony.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% 16.12.2022

1. Since this issue relates to an offense under section 8 of POCSO and the victim as well as the parents of the victim do not wish to pursue the matter further, it would be prudent to traverse the sequence of events.

2. As per the FIR no. 216/2016, the complainant and the complainant's mother, reached PS Defence Colony on 17th October 2016 with their complaint that the complainant used to take bus from Devli and reach Metro Station near Mool Chand flyover to take a further metro to Mandi House for attending his acting classes at National School of Drama. On that day at about 8:00 p.m. when he was waiting for the bus at Mool Chand Metro Station, a person around 40-45 years of age came on a black colour motorcycle and asked the way for Mool Chand Hospital. The motorcyclist said that his wife was admitted in the hospital and asked for help so the complainant went along with the accused who on the pretext of getting petrol, stopped the motorcycle on the side of Chirag Delhi flyover and started misbehaving with the boy victim, touching and caressing the zip of his trousers and touching his body inappropriately. After that the accused stated that he will drop him at his home and took him to Khanpur BRT where they ate food at a restaurant and when he came to Devli road to buy bananas, the complainant pushed him aside and ran away from there and on reaching home told everything to his parents who made a PCR call. Later when the accused was repeatedly calling him on the mobile, he reported that to the police as well. Upon arrest and interrogation, the FIR was registered which has now resulted in a charge-sheet and charges have been framed against the petitioner Suresh Kumar vide order dated 22nd September 2017. When the complaint was examined, on 11th February 2017, the MLC from the AIIMS Trauma Centre reported that the doctor opined, "simple injury, bite marks on both cheeks". Accordingly, Sections 334, 506 IPC had been added to the case. Besides, Section 10 POCSO was added, in addition to Section 8 POCSO under which the original FIR had been registered.

3. The status report filed by the State states that the case is pending trial and the prosecution evidence is slated for January, 2023 and as per the SCRB report, there is no other previous involvement of the accused. This petition has now been filed for quashing of the FIR and the charge-sheet on humanitarian grounds, which has been supported by the affidavits of the complainant (who is now about 22 years of age) and both his parents. The complainant and his parents were also present in Court and confirmed the contents of their affidavits. It is stated in the affidavit of the complainant that "now I have come to know that due to the case against the petitioner/ accused, he has already suffered a lot and his entire family has shattered and has also suffered a setback/demoted in his job." He stated that he was told that the father of the petitioner has expired in 2017, his wife has left him and his son Shekhar is undergoing stress, trauma and suffering from psychiatric disease and further that "his son is also suffering from other ailment i.e. heart and eyes are undergoing treatment in Mool Chand hospital". The affidavit further states that the complainant does not wish to prolong this case anymore and has no objection in the case against the petitioner being quashed. Similarly, affidavits of the parents of the complainant are similar in content and state that they have deposed without any threat, coercion, pressure allurement or inducement whatsoever.

4. The attention of this Court has been brought to earlier decisions of this Court in *Sasikala Pushpa Ramaswamy v Government of NCT of Delhi*, W.P. (CRL) No. 1142/2021 in which FIR got quashed on account of no objection, affidavits, settlement between the parties in a case of familial disputes as also *Salman Rehman v State* (CRL.M.C. No. 4655 of 2022) where quashing of the FIR under Sections 354 D, 376, 506 IPC had been done on account of a settlement.

5. Notwithstanding the above, it is imperative to see that in view of the affidavits and the statement of the complainant and the parents, the prosecution evidence that is to take place would be ineffective and unnecessary due to the stand now taken by the complainant and the parents. Now that the complainant and the parents do not wish to pursue this further and want to put a quietus to the matter, it is quite possible that the prosecution evidence itself, if at all rendered, may not be in favor of the prosecution and the whole trial process would only be a waste of judicial time.

6. In view of the affidavits of the complainant and his parents, continuance of the proceedings would amount to an abuse of process of the learned Trial Court and would serve no useful purpose. Further the guilt of the accused is not yet proven, since the trial is still to commence in the right earnest and therefore to pronounce and visit him with any further punishment at this stage, considering that the complainants themselves do not wish to proceed, would not be prudent.

7. Accordingly, for the reasons cited above and most importantly to respect the desire of the complainant and his parents not to pursue the matter anymore, no purpose would be served in continuance of proceedings. Consequently, FIR No. 216/2016 PS Defence Colony is quashed. This is not to be treated as a precedent and this order is being merely passed in view of the peculiar facts and circumstances.

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

ANISH DAYAL, J DECEMBER 16, 2022/rk