

## Mohd. Shahid vs State & Anr on 2 May, 2022

**Author: Jasmeet Singh**

**Bench: Jasmeet Singh**

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
CRL.M.C. 6349/2019  
MOHD. SHAHID

.....  
Through: Mr. H.L. Gautam, Mr. Virender  
Kumar, Advocates  
versus

STATE & ANR

..... Responde

Through: Mr. Ashok Kumar Garg, Ld. AP  
SI Rekha Chauhan, PS New Ashok Nagar,

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH  
ORDER

% 02.05.2022 CRL.M.A. 20559/2021-EARLY HEARING For the reasons stated in the application, the same is allowed and taken up for hearing today.

This is a petition filed seeking quashing of FIR No. 127/2014 dated 07.02.2014 registered at PS New Ashok Nagar under Section 363/366/376/ IPC and Section 4 POCSO Act and all consequential/subsequent proceedings arising therefrom.

The petitioner is present in Court and has been identified by Mr. Virender Kumar, learned counsel for the petitioner.

The respondent No. is also present in Court and has been identified by I.O, SI Rekha Chauhan, PS New Ashok Nagar.

It is submitted that the parties had got married in the year 2013 according to Muslim law with the consent of the parents and the guardians.

However, at that point of time, respondent No.2 was a minor girl.

The respondent No.2 was 17 years old in 2014, registered an FIR bearing No. 127/2014 dated 07.02.2014 with PS New Ashok Nagar under Section 363/366/376/ IPC and Section 4 POCSO Act.

Subsequently, the parties have started living together and are living happily.

The petitioner and the respondent No.2 have three children presently who are being looked after and taken care by both of them jointly.

The respondent No.2 states that the settlement has been arrived at out of her own free will without any undue influence, threat and coercion.

Even though there are allegations under Section 376 and Section 4 POCSO Act, it can be seen that the parties are happily married. It would cause immense pain to the parties if the FIR and the emanating proceedings arising therefrom, are allowed to continue.

The same has also been observed in Crl. M.C. 1015/2021 titled as „Vikash Kumar vs. The State and Anr. dated 25.03.2021 where this Court has observed as under:-

"8. In the present case, the allegation in the FIR is that the prosecutrix and the accused were working in the same place and have become friends. They fell in love and were living together for two years. The accused went to his native place and the FIR was lodged alleging rape. The prosecutrix has married the accused with whom she was living for two years. The prosecutrix in her affidavit has affirmed the statements made in the petition under Section 482 Cr.P.C. that the parties got married on 01.10.2020 according to Hindu Rites and Ceremonies. Their families have accepted the marriage and they have a child from the marriage. In the facts of the case, continuation of the proceedings would cause immense harm to the prosecutrix and the small child. This Court is aware that offences like rape cannot be quashed by exercising jurisdiction under Section 482 Cr.P.C. if a compromise has been reached, but, at the same time, this Court cannot ignore and overlook the welfare of the small child and the future of the prosecutrix.

9. Similar views have been taken by the High Court of Kerala in Ashiq N.A. v. State of Kerala and Anr., 2019 SCC Online Ker 1731 and Freddy @ Antony Francis & Ors. v. State of Kerala and Ors, [Crl.M.C.No.723/2017] decided on 02.02.2017 and by the High Court of Uttarakhand in Akash Gupta v. State of Uttarakhand and Anr, [Criminal Misc. Application No.502/2018) decided on 27.10.2018.

10. Mr. Raja Ram Sharma, learned counsel appearing for the petitioner has placed reliance on an order dated 07.09.2020 passed by this Court in Bitu Yadav @ Vikas Yadav v. State(NCT of Delhi) & Anr., [CRL.M.C.1761/2020], wherein this Court has quashed the FIR where the prosecutrix and the accused were married. Paras 17, 18 and 19 of the said order, read as under:

"17. In view of the submissions made by the respondent No.2 before this Court, the respondent No.2 is liable to be prosecuted. However, keeping in view the fact that the petitioner and respondent No.2 are married and living happy married life, I hereby refrain from taking any legal action against the respondent No.2. A similar view was taken by this court in the case of Danish Ali v. State and Anr. in Crl.M.C.1727/2019.

18. Taking into account the aforesaid facts and the fact that the petitioner and respondent No.2 are in love affair since 2013 and they are married, this Court is inclined to quash FIR as no useful purpose would be served in prosecuting petitioner any further.

19. For the reasons afore-recorded, FIR No.384/2020 dated 31.07.2020, for the offence punishable under Sections 376/506 IPC, registered at PS-Dwarka North, Delhi and consequent proceedings emanating therefrom are quashed." (emphasis added) For the reasons stated above, the FIR No. 127/2014 dated 07.02.2014 registered at PS New Ashok Nagar under Section 363/366/376/ IPC and Section 4 POCSO Act and all consequential proceedings emanating therefrom are hereby quashed.

JASMEET SINGH, J MAY 2, 2022 / (MS) [Click here to check corrigendum, if any](#)