

\$~24

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

Date of decision: 06.07.2022

+ **W.P.(CRL) 1449/2022 & CRL.M.A. 12616/2022**

IMRAN

..... Petitioner

Through: Mr Nasir Ahmed, Mohammad
Muzahir Husain and Mr Zakir
Hussain, Advs.

versus

STATE OF DELHI THROUGH COMMISSIONER
OF DELHI POLICE & ORS.

..... Respondent

Through: Mr Rajesh Mahajan, ASC for State
SI Meenakshi, PS Ranjit Nagar
Mr B.L. Yadav, Adv. for complainant
with parents of victim.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

1. This is a petition seeking quashing of FIR No. 196/2022 dated 29.01.2022, PS-Ranjit Nagar, Delhi, under Sections 376/506 IPC & Section 6 of POCSO Act and the charge sheet dated 29.03.2022, under Sections 376/506/406/377 IPC read with Section 6 of POCSO Act and Section 4 of Dowry Prohibition Act pending before learned ASJ-01 (West) Special Court, POCSO Act.

2. It is stated in the FIR that the child victim was aged 16 years and 5 months on 01.01.2022 i.e. the date of the first incident. It is stated that the

petitioner visited the house of the victim and requested the parents of the victim for marriage with the victim. The parents of the victim agreed on the condition that the marriage will only take place when the victim clears her Class XII.

3. It is also stated that the parents of the victim gave Rs. 1 lakh in cash, silver chain, watch, Oppo company mobile, gold ring, clothes, etc. at the time of engagement of the petitioner and the victim. Subsequently, the father of the victim also allegedly gave a sum of Rs 10 lakhs to the petitioner by selling his house for Rs. 6 lakhs and taking loan on interest of Rs 4 lakhs. It is further stated in the FIR that after the engagement, the petitioner had physical relationship with the victim on 01.01.2022 and thereafter on 03.01.2022. It is stated that subsequently, the petitioner refused to get married to the victim and abused the victim as well as her parents.

4. Mr Ahmed, learned counsel appearing for the petitioner at the outset states that the petitioner has never refused to marry the victim and even today is ready and willing to marry the victim.

5. The parents of the victim are present in Court and have been identified by the Investigating Officer and state that due to whatever has transpired in the last so many months they are not interested in getting the victim married with the petitioner.

6. Mr Ahmed submits that the FIR has been filed on 29.01.2022 i.e. almost after a month of the incidents which were 01.01.2022 and 03.01.2022. He further submits that the petitioner returned Rs. 1,53,005/- in the bank account of the mother of the victim, gave Rs. 30,000/- in cash and paid Rs. 2,42,522/- on 09.06.2021 and Rs. 1,57,600/- on 18.12.2021 for purchasing the building material to construct the house of father of victim.

He further submits that the provisions of Section 6 of POCSO Act is not applicable to the present case, as according to Muslim Personal Law, the victim is a major as she has attained puberty. He further submits that the victim has refused to undergo medical examination and the allegations are false and have been levelled only to pressurize the petitioner.

7. Mr Mahajan, learned ASC states that at the stage of quashing what requires to be seen by the Court is whether a cognizable offence is made from the reading of the FIR and the material filed in the charge sheet including 164 Cr.P.C statement. He further states that Section 6 POCSO Act is not religious specific but age specific. The aim of the POCSO Act is to prevent children from sexual crimes. It is the age which is important and admittedly in the present case the victim was less than 18 years of age. The pleas taken by the petitioner are in the nature of defence which can only be adjudicated after trial.

8. I have heard learned counsel for the parties and have gone through the record.

9. I am in agreement with Mr Mahajan that POCSO is an Act for protection of children below 18 years of age from sexual abuse and exploitation. It is not customary law specific but the aim of the Act is to protect children below the age of 18 years from sexual abuse. The statement of object of the POCSO Act states that the Act is aimed to secure the tender age of the children and ensure they are not abused and their childhood and youth is protected against exploitation.

10. For the reasons above, I reject the contention of the petitioner that according to Muslim law since the victim has attained the age of puberty the rigours of POCSO Act will not be applicable.

11. As regards the other arguments of the learned counsel for the petitioner are concerned, I am of the view that the same are in the nature of defence and can only be proved/disproved after trial. None of the ingredients of the principles given in *State of Haryana v. Bhajanlal*, 1992 SCC (Cr1.) 426 are applicable to the facts of the present case and hence, the petition is dismissed.

JULY 6, 2022

sr

JASMEET SINGH, J

[Click here to check corrigendum, if any](#)

भारत्यमेव जयते