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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2253/2023 & CRL.M.A. 8514/2023**

VEER SINGH

..... Petitioner

Through: Mr. N. Hariharan, Senior Advocate with Mr. Vaibhav Sharma, Mr. Siddharth S. Yadav, Ms. Punya Rekha Angara, Mr. Prateek Bhalla and Mr. Manish and Ms. Rebecca John, Senior Advocate with Mr. Abhimanyu Bhandari, Ms. Garima Sehgal, Ms. Gauri Rishi, Mr. Nikhil Kohli and Ms. Shrishti Juneja, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Shoaib Haider, APP for the State with SI Preeti, P.S.: Defence Colony. Ms. Geeta Luthra, Senior Advocate with Mr. Madhav Khurana, Ms. Shivani Luthra Lohiya, Mr. Nitin Saluja, Ms. Asmita Narula, Mr. Samarth Luthra, Ms. Poonam and Mr. Saahil Mongia, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **29.03.2023**

CRL.M.A. No.8513/2023 (Exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

CRL.M.C. 2253/2023 & CRL.M.A. 8512/2023 (Stay)

By way of the present petition under section 482 of the Code of

Criminal Procedure 1973 ('Cr.P.C.'), the petitioner seeks setting-aside of order dated 27.03.2023 made by the learned Additional Sessions Judge ('ASJ') in CR No. 484/2022 titled *Ms. A vs. State of NCT of Delhi & Ors.* whereby the learned ASJ has reversed order dated 22.10.2022 made by the learned Metropolitan Magistrate on an application under section 156 (3) Cr.P.C. in CT Case No. 1893/2022.

2. By way of order dated 22.10.2022, the learned Magistrate had dismissed an application filed by the complainant/respondent No. 2 under section 156 (3) Cr.P.C. This order has been reversed by the learned ASJ, thereby directing registration of an FIR under sections 341/342/354C/417/493/496 and 375 of the Indian Penal Code 1860 ('IPC').
3. Ms. Rebecca M. John and Mr. N. Hariharan, learned senior counsel appearing for the petitioner submit, that there is a long list of litigations between the parties, both past and pending. The petitioner and respondent No. 2 have had a relationship over a period of time, from which the disputes have arisen. Respondent No. 2 has also had a child with the petitioner, who was born on 13.04.2019.
4. Learned senior counsel have taken the court through various orders made in the several proceedings between the parties, which include orders made by the learned Family Court in proceedings under the Protection of Women from Domestic Violence Act, 2005 as also orders made by other benches of this court in subsequent proceedings that have come to be filed by the parties.
5. The genesis of the matter, which has led to the passing of the impugned order, is a complaint dated 11.07.2022 made by respondent

No. 2 to the Crime Against Women Cell, setting-out her grievances against the petitioner.

6. Shorn of unnecessary details, in the police complaint respondent No. 2 states that the petitioner, who was a divorcee, induced respondent No. 2 into having physical relations with him on a false promise of marriage. Respondent No. 2 alleges, that as a result of their physical relations which were induced by deceit, she conceived a child with the petitioner. Respondent No. 2 further alleges that thereafter, on 04.12.2018 the petitioner and respondent No. 2 went through a 'Buddhist marriage ceremony' in Taiwan, which was also attended by close friends.
7. It is respondent No. 2's contention however, that subsequently the petitioner has denied that he had ever got married to respondent No. 2, which is the basis of the allegation that the petitioner has committed upon her offences *inter-alia* under sections 376/420/341/342/344/493/496/354C/354D. These are also her allegations in the application under section 156(3) Cr.P.C.
8. The gravamen of the allegation accordingly is that the petitioner induced respondent No. 2 to have physical relations with him on the false promise of marriage.
9. As narrated above, the petitioner and respondent No. 2 have been locked in legal battle *inter-alia* on issues of maintenance claimed by respondent No. 2, as also in relation to visitation rights and custody of their child; and consequently, various orders have been made by the courts from time-to-time.
10. The essential submission of learned senior counsel appearing for the

petitioner is, that despite the on-going legal battles between the parties, a complaint relating to the allegations that are subject matter of the present proceedings, came to be made only much later on 11.07.2022, which allegations are *ex-facie mala-fide* and have been made for ulterior motive.

11. Upon a *prime-facie* consideration of the matter, issue notice.
12. Mr. Shoaib Haider, learned APP is present on behalf of the State on advance copy; accepts notice; and seeks time to file status report.
13. Mr. Haider submits that as of date no FIR has been registered pursuant to order dated 27.03.2023 passed by the learned ASJ.
14. Mr. Madhav Khurana, learned counsel is present on behalf of respondent No. 2 on advance copy; accepts notice; and seeks time to file reply.
15. Mr. Khurana submits, that the offences alleged are made-out based on the petitioner's own stand, since he now denies the factum of marriage.
16. Be that as it may, at this stage, this court is persuaded to notice that it is respondent No. 2's own position that she went through a Buddhist marriage ceremony with the petitioner in Taiwan. It is seen that several of the proceedings filed by respondent No. 2 against the petitioner are based on the premise that she is the lawfully wedded wife of the petitioner. If that be the stand of respondent No. 2, then the principal offence under section 375 IPC would not be made-out, since the promise of marriage cannot be said to have been false.
17. Mr. Khurana however asserts that mere registration of the FIR does not prejudice the petitioner in any manner; and the filing of the

present petition challenging the order directing registration of FIR is premature.

18. Ordinarily, if the ingredients of a cognizable offence are made-out, the law requires an FIR to be registered. However, in the present case, the court entertains a fundamental doubt as to whether the requisite ingredients are disclosed, since even on a demurrer, respondent No. 2 herself alleges that she is the petitioner's lawfully wedded wife.
19. Suffice it to say that the above aspects require closer consideration.
20. However, at this stage, the court does not wish to delve any further or make any comments on the matter, except to say that registration of an FIR would certainly impact the petitioner, since in the opinion of this court, registration of an FIR against a person carries with it a stigma and a cloud apart from subjecting the person to other legal consequences. This court has in fact opined on the effect of registration of an FIR in its order dated 06.12.2022 made in the case of *Dr. Jesim Pais vs. State of NCT of Delhi*, bearing Crl. M.C. No. 6554/2022 in the following words :

“12. The registration of an FIR against a person has serious consequences, since it exposes the person to a protracted criminal process, which at times can be punishment in itself. Once the ball of the criminal process is set-rolling by directing registration of an FIR, a person is exposed to several procedures and processes, including those that are coercive and that may restrict personal liberty; which processes may go on for decades, in view of the constraints and compulsions of our criminal justice system.”

21. In the circumstances, the operation of order dated 27.03.2023 made by the learned ASJ shall remain stayed, till the next date of hearing before this court.
22. Let status report/reply be filed within 04 weeks; response/rejoinder thereto, if any, be filed within 03 weeks thereafter; with copies to the opposing counsel.
23. Re-notify on 29th May 2023.

ANUP JAIRAM BHAMBHANI, J

MARCH 29, 2023/uj