

247 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:057192



CRM-M-50584-2022 (O&M)
DATE OF DECISION : 01.05.2025

ANAND SINGH AND ANOTHER ... PETITIONERS
V/S
STATE OF HARYANA AND OTHERS ... RESPONDENTS

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Aditya Sanghi, Advocate for the petitioners.

Mr. Brijesh Sharma, AAG Haryana.

Mr. Lokesh Sharma, Advocate for respondent Nos.2&3.

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KIRTI SINGH, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 139 dated 08.07.2022 registered under Sections 10/11/9 of Children Marriage Prohibition Act, 2006 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Women, District Karnal, Haryana.

2. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in this case. Petitioner No.1 is the husband while petitioner No.2 is the mother of the prosecutrix, who has been made party to the petition as respondent No.2. He submits that the present FIR was registered on the complaint of the Chairman, Child Welfare Committee, Karnal alleging that the prosecutrix who was a minor aged about 17 years,

was married to the petitioner and a child was delivered by her at the hospital. It is submitted that it is a case where petitioner No.1 and respondent No.2 were in a consensual relationship and therefore, had performed marriage with the consent of both their families. The couple has since been residing together happily as husband and wife and have also now been blessed with a child. Therefore, given these circumstances, continuation of criminal proceedings against the petitioners, especially so when no complaint was made by the prosecutrix or her family members ever, would only tantamount to disturbing the marital life of the parties and also ruin the future of their child. In support of his submissions, learned counsel has placed reliance upon the judgment of the Hon'ble Supreme Court of India passed in ***Mahesh Mukund Patel Vs. State of U.P., Criminal Appeal No. 1005 of 2025***, decided on 28.02.2025; as also the judgment of the Rajasthan High Court in ***Tarun Vaishnav Vs. State of Rajasthan and another, S.B. Criminal Misc (Pet.) No. 6323/2022*** decided on 13.10.2022.

3. Learned counsel appearing for respondents No.2 and 3 do not controvert the submissions made the learned counsel for the petitioners, and pray that in view of the same, the present FIR be quashed.

4. Per contra, learned State counsel submits that the prosecutrix was a minor when she had gone to the hospital for the delivery of her child. On finding out the factum of the age of the prosecutrix, which was 17 years at the time, a complaint was made by the acting officials in compliance of the provisions of POCSO Act. Therefore, in view of the serious allegations against the petitioners for getting the marriage of petitioner No.1 performed with respondent No.2, the present petition is liable to be dismissed.

5. Under similar circumstances, a Co-Ordinate Bench of this Court

in *Devender Nath Vs. State of U.T. Chandigarh and others; CRM-M-23281-2023*, quashed the FIR registered against the petitioner therein after making the following observations:-

“16. The intention behind creation of the POCSO Act was to protect children from sexual exploitation and by means of special procedure and stringent punishment promote deterrence. This Court is conscious of the dictum of the Hon’ble Supreme Court in *Independent Thought (supra)*, it appears to be a case of consensually married couple, where neither party desired litigation. While sincere efforts are made through various legislations and policies to combat the child marriage, time and again, the Courts have reiterated that while dealing with minors, their welfare takes precedence over all else, therefore, adjudication of a case without considering the societal and cultural context would be a travesty of justice. The overarching aim of justice is to serve what is deserved and accountability and fairness are identifying features of the same. However, the said purpose would be defeated if justice is viewed in its absolute mechanical form, devoid of context and nuance. While justice in itself is a dynamic concept, directly influenced by the morality of an ever-evolving society, it can be said with certainty that absolute impartiality and lack of compassion often claims fairness as a casualty. In a welfare State, it is of the utmost importance that the vulnerability of the disadvantaged is recognised and the application of justice is viewed from a renewed perspective. The plight of this young married couple who have recently lost a child and are running from pillar to post to restore normalcy to their lives can only be truly addressed when compassion drives justice.

17. In the instant case, respondent no. 2 has been happily married to the petitioner and has categorically stated that she neither moved any complaint nor desires further action against the petitioner. Respondent no. 2 has attained the age of majority and wants to continue with her matrimonial life. If the criminal proceedings against the petitioner allowed to continue, not only will it lead to unnecessary incarceration of the petitioner but also leave respondent no.2 bereft of financial and emotional support. Therefore, this Court is of the considered view that justice can only be substantially realised if the FIR in the present case is quashed, in view of the compromise entered into between the parties.”

6. Heard the contentions advanced and perused the record with their able assistance.

7. The Hon'ble Supreme Court in *K. Dhandapani vs. The State* by the Inspector of Police, Criminal Appeal No. 796 of 2022, though explicitly held for the judgment to not be treated as a precedent, set aside the conviction and order of sentence of the maternal uncle of the prosecutrix who had married her and had a family with her. While commenting on the need to acknowledge the peculiar facts of the case, it was opined that, “..This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix...”

8. The *Rajasthan High Court in Tarun Vaishnav vs. State of Rajasthan and another*, S.B. Criminal Misc(Pet.) No. 6323/2022, decided on 13.10.2022, SLP against which was dismissed on 03.03.2023, set aside the FIR against the petitioner accused of corresponding allegations as in the present case by observing that, “15. The petitioner’s prosecution and conviction will lead to pain and tears in the eyes of the family members of both the parties and future of two families, and above all, an innocent child will be at stake, whereas, if the impugned FIR is quashed, it would serve the ends of justice.”

9. In *Sonu @ Sunil vs. State of NCT of Delhi and others*, CRL.M.C. 4168/2022, decided on 26.04.2024, the Delhi High Court, while quashing an FIR based on similar facts, observed that, “26. Of late, however, the Courts are faced with petitions where children, who are about to attain the age of majority, in ignorance of the statutory prohibitions and restrictions and consequences, in the name of love, commit acts which would otherwise amount to offence under the provisions of the Child Marriage Act, POCSO Act, and the IPC. Though, being minor, their consent is immaterial, however, factually it is there. This situation makes the Courts face with two

consequences, either to go strictly by the mandate of the statute and convict the boy and impose punishment on him, which is rather severe in these statutes, or to exercise its power under Section 482 of the Cr.P.C. to protect the otherwise innocent children/adult by quashing the criminal proceedings. The Courts when faced with such a dilemma, has been adopting the route of exercising its power under Section 482 of the Cr.P.C., to quash such criminal proceedings where it finds that the girl was nearing the age of majority; had gone with the boy of her own free will (though it may be immaterial in law); is happily living with the boy, either in matrimony or otherwise, after attaining the age of majority; and in some circumstances where such relationship has also resulted in children being born. The Court, in such circumstances, is persuaded to save the lives of such an accused, rather than to make him undergo trial and eventual punishment, which would not only ruin innocent lives of the parties to such a relationship, but may be, also of the children that are born therefrom...” In conclusion, it was held by the Court that, “ 28. As noted hereinabove, though the respondent no.3 was a minor when she eloped with the petitioner, and may be when they solemnized their marriage, she states that she is happily living with the petitioner, and the two children, who have been born from the wedlock. In such a scenario, to continue to prosecute the petitioner would in fact be to punish the respondent no.3, who the law sees as a victim. It would also punish the two children for no fault of theirs. It will ruin four lives and no person shall gain therefrom.”

10. Reverting to the present petition, pursuant to the order of this Court dated 11.05.2023, report dated 07.06.2023 was received from the learned Additional Sessions Judge, Karnal, perusal of which reveals that statements of the concerned persons have been recorded in the present case,

who have stated that the matter has been settled between them and they have no objection in case the FIR in question is quashed. The compromise effected between them is genuine, without any undue influence and coercion.

11. In compliance of the order dated 22.04.2025, the prosecutrix and her minor child are present in the Court today and the prosecutrix made a submission to the effect that she does not wish for the criminal proceedings against the petitioners to continue.

12. No doubt complaint in the present petition was made in discharge of the duty conferred upon the acting officials under POCSO Act, however, this Court cannot turn a blind eye towards the fact that since petitioner No.1 and the prosecutrix are now happily married and also have a child from their wedlock, continuing with the criminal proceedings will cause undue harassment to petitioner No.1 and also to the prosecutrix and their child.

13. As a fallout, the present petition is allowed and FIR No.139 dated 08.07.2022 registered under Sections 10/11/9 of Children Marriage Prohibition Act, 2006 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Women, District Karnal, Haryana, is quashed qua the petitioners.

14. Pending application(s), if any, shall also stand(s) disposed of accordingly.

01.05.2025

Janki

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No