

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<u>C 482 No. 49 of 2023</u> <u>Hon'ble Rakesh Thapliyal, J.</u> 1. Mr. Prabhakar Joshi, learned counsel for the applicant. 2. Mr. V.K. Jemini, learned Assistant Government Advocate with Mr. Sandeep Sharma, learned Brief Holder for the State. 3. Mr. B.S. Negi, learned counsel for the respondent no. 2. 4. Applicant is facing trial in Special Sessions Trial No. 62 of 2021 arising out of FIR No. 06 of 2021 (State Vs. Dinesh Ram) for the offence punishable under Section 376 IPC read with Section 5 (j)/(ii)/(6) of the POCSO Act pending in the court of Special Sessions Judge, Champawat. 5. Present applicant is in jail. This C482 application has been moved with compounding application duly supported by an affidavit of brother of applicant namely Chandan Ram and respondent no. 2 - Narayan Ram, father of the victim. 6. Chandan Ram, brother of the applicant and respondent no. 2 - Narayan Ram, father of the victim and victim with her minor child, are present, in person before this Court and they are duly identified by their respective counsel. 7. Learned counsel for the applicant submits that after lodging of the FIR, cognizance was taken and applicant Dinesh Ram was sent to jail. However, he was granted short term bail for six months for performing the marriage with the victim. This short term bail was granted by the Coordinate Bench on 25.01.2023 and after released on bail, Dinesh Ram performed marriage with victim on 12.02.2023. Marriage of Dinesh Ram with victim is also certified by the Gram Pradhan of Gram Panchayat. After performing the marriage and on completion of duration of short term bail, applicant surrendered in the court and now, is in jail. 8. Learned counsel for the applicant submits that applicant and victim were in love with each other and

			that is the reason, a child was born even before marriage, who is two year old now. 9. No doubt offence is serious in nature but this aspect cannot be ignored that now, present applicant is married with the victim and for the purpose of marriage, he was enlarged on short term bail. This fact also cannot be over looked that both Dinesh Ram - applicant and victim have a child of two years, therefore, if these proceedings are permitted to continue career of applicant, victim and their child will be spoiled. 10. Per contra, Mr. V.K. Jemini, learned State Counsel submits that that offences for which applicant is facing trial admittedly are not compoundable but looking into the fact that both are married and they have two years old child, therefore, for all purposes, continuation of these proceedings will certainly spoil the future of applicant, victim and their minor child. Therefore, continuation of these proceedings will be a futile exercise. 11. Learned counsels for both the parties have placed reliance on the judgment rendered by Bombay High Court and Himachal Pradesh High Court. 12. The Hon'ble Bombay High Court in the case of Shakil Ahmed Shaikh and Another Vs. State of Maharashtra and another, decided on 23.03.2023, in paragraph 7 observed that, "if the victim attains the age of majority after lodging of the report and they happily marry and reside under one shelter and leading peaceful life as a husband and wife, therefore, the continuity of the proceedings would be nothing but a futile exercise." The Hon'ble Bombay High Court also relied upon the judgment of the Hon'ble Apex Court in the case of Gian Singh Vs. State of Punjab and another, (2012) 10 SCC 303. 13. The Himachal Pradesh High Court in the case of Ranjeet Kumar Vs. State of H.P. decided 08.12.2023 in paragraph 46 has held as under: <i>"46. This Court on the basis of the material placed on record has satisfied itself that the child victim and her family members have settled the dispute and the victim is now leading a happy and peaceful married life and therefore, allowing the prosecution to continue in such a case would only result in disturbance in their happy family life and ends of justice in such circumstances would demand that the</i>
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			<i>parties be allowed to compromise. We are further satisfied that such compromise is not a camouflage to escape punishment and the consent given by the victim for compromise is voluntarily. Lastly, and more importantly, the Court is satisfied after considering all the facts and circumstances of the case, that quashing the proceedings would promote justice for victim and continuance of the proceedings would otherwise cause injustice. Ordered accordingly."</i> 14. In view of this and looking into the facts and circumstances of the case that applicant and victim are now married and they have minor child, the instant compounding application deserves to be allowed. Accordingly, compounding application is allowed. 15. Entire proceedings of Special Sessions Trial No. 62 of 2021 arising out of FIR No. 06 of 2021 (State Vs. Dinesh Ram) for the offence punishable under Section 376 read with Section 5 (j)/(ii)/(6) of the POCSO pending in the court of Special Sessions Judge, Champawat against applicant Dinesh Ram are quashed. 16. It is made clear that as and when, applicant Dinesh Ram is released from jail. Both applicant Dinesh Ram and victim get their marriage registered as per law and submit a copy of the marriage registration certificate to this Court by way of supplementary affidavit. 17. C482 application stands disposed of. (Rakesh Thapliyal, J.) 21.12.2023 SKS
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