



HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 760 of 2023

Ashish Kumar

--Applicant

Versus

State Of Uttarakhand and Another

--Respondents

Presence:-

Mr. Pankaj Kumar Sharma, learned counsel for the applicant.

Mr. Siddhartha Bisht, learned AGA for the State.

Hon'ble Siddhartha Sah, J.

Mr. Pankaj Kumar Sharma, learned counsel for the applicant.

Mr. Siddhartha Bisht, learned AGA for the State/respondent no.1.

2. Counter affidavit filed by the State in the Court is taken on record.

3. By means of the present application under Section 482 of Cr.P.C., the applicant has sought quashing of the charge sheet dated 15.05.2022, summoning order dated 28.07.2022 as well as the entire proceedings of Special Sessions Trial No.99 of 2022 (Case Crime No.144/2022), 'State vs. Ashish' under Sections 363, 366A, 376(2)(n) of the IPC and Section 5(l)/6 of the Protection of Children from Sexual Offences Act, 2012, Police Station Bahadrapur, District Haridwar, pending



before Additional District & Sessions Judge/Special Judge, POCSO, Haridwar.

4. When the notice was initially issued to respondent no. 2, the service report dated 20.05.2023, states that administrative notice sent to respondent no. 2 has been received by the same personally. The Respondent No. 2 has been served personally, but in spite of that, has not participated in the proceedings, from which it appears that he is not interested in participating in the present proceedings, therefore, the matter is being heard in his absence.

5. Facts in a nutshell, as borne out from the affidavit in support of the Criminal Miscellaneous Application under Section 482 of the Cr.P.C., are as follows:-

The respondent no. 2 lodged an F.I.R. on 14.03.2022 at Police Station Bahadrabad, District Haridwar, with the allegations that on 13.03.2022, the victim/daughter of the complainant, who is aged about 18 years, has left the house on the night of 13.03.2022 without informing, and after searching a lot, she is not traceable, and a doubt was expressed that a boy from the village, named Ashish, has enticed his daughter.

6. Pursuant to the aforesaid report, F.I.R. No.



0144 of 2022 was registered at Police Station Bahadrabad, District Haridwar, under Section 363 of I.P.C. In pursuance of the aforesaid F.I.R., investigation ensued and culminated in submission of the charge sheet against the applicant on 13.05.2022 under Sections 363, 366A, 376(2)(n) of I.P.C. and Section 5(1)/6 of the Protection of Children from Sexual Offences Act, 2012. On the basis of the charge sheet, the trial court took cognizance, and summoned the applicant to face trial vide order dated 28.07.2022.

7. Assailing the aforesaid charge sheet and the summoning order, the learned counsel for the applicant, drawing the attention of the Court to the F.I.R., submitted that even in the F.I.R., the age of the victim has been narrated to be 18 years, and as such, at the very inception, the offences under the POCSO Act would not be attracted.

8. Learned counsel for the applicant has further drawn the attention of the Court to the charge sheet and would submit that in the charge sheet itself, it has been stated that when the statements of the victim were recorded, she had stated that she is in love with the applicant and her age is 19 years, and she had also produced her Voter ID card. She has further stated to the



Investigating Officer that she has gone with the applicant on her own wish, voluntarily.

9. It is further borne out from the reading of the charge sheet that in her statements under Section 164 of Cr.P.C., the victim has stated that she wants to marry the applicant. The family members of the victim were not ready to take the custody of the victim; therefore, the victim was sent to Shelter Home. From the charge sheet, it is further borne out that the victim and the applicant solemnized their marriage on 15.03.2022 which was registered before the Registrar Office, Laksar, District Haridwar, on 16.03.2022.

10. Learned counsel for the applicant would submit that the applicant and the victim have married and it is a duly registered marriage, and has invited the attention of the Court to the marriage registration certificate which is annexed as Annexure No. 5. A perusal of the same reveals that the marriage registration certificate has been issued by the Office of the Registrar, Compulsory Registration of Marriages, Laksar, District Haridwar, Uttarakhand, on 16.03.2022.

11. Learned counsel for the applicant further submits that after the marriage, the couple has been living a happy married life and they have been blessed



with children. He would thus submit that in view of the aforesaid facts and circumstances, since the victim had accompanied the applicant and had gone with the applicant on her own wish without any force, and has also thereafter married him, no offences are made out against the applicant. He would thus submit that the charge sheet and the summoning order may be quashed.

12. Per contra, Mr. Siddhartha Bisht, learned A.G.A. would submit that on the date of the incident, the victim was a minor, hence, offence under the POCSO Act would be attracted. The father/reporter was also against the marriage; however, he would not deny the factum of marriage and that it is a registered marriage. He would also fairly submit that in the statements of the victim recorded under Sections 161 and 164 of Cr.P.C., she has not supported the prosecution case.

13. Having heard the learned counsel for the parties and after going through the record, it is evident from the record that the victim had, in fact, accompanied the applicant on her own wish, and the family members were, in fact, not ready to accept her into the family. It is also borne out from the record that the applicant and the victim have solemnized their marriage, and the marriage has been registered in the Office of the Registrar,



Compulsory Registration of Marriages, Laksar, District Haridwar, and a copy of the certificate is on record as Annexure No. 5.

14. In this regard, reference needs to be made to the judgment of the Hon'ble Supreme Court in the case of **Ayyub Malik and Another vs. State of Uttarakhand and Another, reported in 2026 SCC OnLine SC 637**, wherein under identical circumstances, where a minor aged 17 years had gone missing from the house, and it was alleged that the accused had enticed the daughter of the complainant and taken her away and F.I.R. was registered against the accused and he was charge-sheeted inter-alia under the provisions of the POCSO Act, the Hon'ble Supreme Court, noting that the daughter of the informant had married the accused, quashed the proceedings of the criminal case. The relevant paragraphs of the aforesaid judgment in **Ayyub Malik (Supra)**, are being extracted hereunder :-

“3.4 Calling in question the judgment and order of the High Court, the present appeal has been preferred by appellant Nos. 1 and 2 jointly. It is the case of both the appellants that both of them were in relationship of love with each other since long. It was stated that as there was an opposition from their family members, appellant Nos. 1 and 2 ran away from



their house and got married on 25.09.2020 as per the Muslim rites and rituals. It was stated that the marriage was performed before a Kazi, pursuant to which a marriage certificate dated 25.09.2020 was also issued. It was next stated that appellant Nos. 1 and 2 were major in age on the date of contracting of marriage, as the date of birth of appellant No. 2 is 28.05.2000. In the appeal before this Court, both the appellants affirmed their separate affidavits in support of their case, making joint prayer for quashment.

4. Learned counsel for the appellants submitted that the appellants have been living in matrimonial relationship which aspect should have weighed with the High Court and in that view the criminal proceedings arising out of the FIR ought to have been quashed. While counting the said submission on behalf of the appellants, learned counsel for the respondents could not dispute the factum of marriage between the appellants.

5. There is no gainsaying that the appellants are presently a married couple. Both, out of their own with and volition tied matrimonial knot as per the rites of their religion. Both belong to the same religion. The appeal before this Court came to be filed by both of them jointly seeking to quash the criminal proceedings which were initiated at the instance of respondent No. 2-father of appellant No. 2. It is also not disputed that the parties have been happily residing at their matrimonial home at village Saliyar Salhapur, Ganganahar, Roorkee, Haridwar, It was stated that a child has been born out of the wedlock.



5.2 A faint attempt was made by learned counsel for the respondent to try and submit that at the time of incident when the appellant ran away with appellant No. 2, appellant No. 2 was a minor and was not of marriageable age. On the other hand, it is claimed that the boy and girl had attained marriageable age when they entered into matrimonial relationship. Whether appellant No. 2 was minor of the age little less than the marriageable, whether appellant No. 1 lured appellant No. 2 and made her eloped with him and whether the conduct on the part of appellant No. 1 was in the nature of offence alleged against him or not, are the questions which all pale into insignificance.

5.3 The situation is obtained that now the parties voluntarily got married and started residing and living together to lead their married life without any complaint. It is noticeable that when the FIR was filed by the father of appellant No. 2 on 01.06.2020, both the appellants had already married according to their own will and choice. Presently, both are major and almost six years have elapsed since they are in matrimonial relationship with each other.

6. It may be true that fleeing with a girl who is not of marriageable age and who is minor is an offence under law, however, the subsequent development of marriage between the two lovers and the fact that they have been merrily living would outweigh the need to take the alleged offence or the criminal proceedings to their logical end. In the fact situation like one obtained in the present one, continuation of criminal proceedings against appellant No. I would



become harassing and stand as an abuse of process of law.

6.1 Any litigation brings a kind of botheration for the parties. The uncertainty of the outcome of the litigation always looms large. When it is a criminal case, its pendency becomes burdensome and worrisome. For appellant No. 1 as well as appellant No. 2, negotiating the criminal proceedings in a court of law, notwithstanding that both are now husband and wife living together, would operate as painful interference in their happy life. The High Court would have done justice to the parties only by quashing the criminal proceedings against appellant No. 1 Initiated by the complainant-father of appellant No. 2”.

15. The facts and circumstances of the present case are akin to the case of **Ayyub Malik (Supra)**, since in the said case, the Hon’ble Supreme Court under identical circumstances had proceeded to quash the criminal proceedings, hence in the present case also, where the victim and the applicant have got married and are leading a happy married life, it would be a travesty of justice to let the matter go into trial. In the peculiar facts and circumstances of the case, the charge sheet dated 15.05.2022, summoning order dated 28.07.2022 as well as the entire proceedings of Special Sessions Trial No.99 of 2022 (Case Crime No.144/2022),’State vs. Ashish’ under Sections 363, 366A, 376(2)(n) of the IPC and



Section 5(l)/6 of the Protection of Children from Sexual Offences Act, 2012, Police Station Bahadrabad, District Haridwar, pending before Additional District & Sessions Judge/Special Judge, POCSO, Haridwar deserve to be quashed.

16. Accordingly, the Misc. Application under Section 482 of Cr.P.C. is allowed, and the charge sheet dated 15.05.2022, summoning order dated 28.07.2022 as well as the entire proceedings of Special Sessions Trial No.99 of 2022 (Case Crime No.144/2022), 'State vs. Ashish' under Sections 363, 366A, 376(2)(n) of the IPC and Section 5(l)/6 of the Protection of Children from Sexual Offences Act, 2012, Police Station Bahadrabad, District Haridwar, pending before Additional District & Sessions Judge/Special Judge, POCSO, Haridwar are hereby quashed.

(Siddhartha Sah, J.)

07.08.2026

JKJ/