



22.07.2024 passed in CRM-M-34170 of 2024 has set aside the order dated 31.01.2017, declaring petitioner Nos.2 and 3 proclaimed offenders.

3. Learned counsel for the petitioners further submits that petitioner Nos.2 and 3 have already appeared before learned trial Court and had also deposited the cost imposed by this Court. Learned counsel relies upon the judgment dated 05.04.2017 (Annexure P-6), vide which, petitioner No.4 and one other co-accused have been acquitted. Thereafter, petitioner No.1 was acquitted by learned trial Court and allegation against petitioner Nos.2 and 3 lacks specificity and they have been implicated by the complainant only for the reason that they are the family members of the husband of her daughter and since the daughter of the complainant, at the time of marriage, was major and she is residing happily with petitioner No.1 as his wife and both of them are blessed with two daughters and the continuation of proceedings against petitioner Nos.2 and 3 are clearly an abuse of the process of law and the case of the petitioner is squarely covered by ratio of law as culled out by this Court in ***Devendranath v. State of U.T. Chandigarh and Others*** bearing CRM-M-23281-2023.

4. *Per contra*, learned State counsel opposed the prayer of the petitioners, however, he could not controvert the fact that petitioner Nos.1 and 4 have been acquitted by learned trial Court.

5. Having heard learned counsel for the parties and after perusing the record of the case it transpires that petitioner No.1 is husband of the daughter of the complainant and he along with petitioner No.4 have already been acquitted after facing the trial and petitioner Nos.2 and 3 are brother-in-law and father-in-law of the complainant and they have no role in the alleged crime.

Reliance in this regard can be placed upon the following :



Sr. No.	Case Title	Court
	K. Dhandapani v. The State 2022(2) R.C.R.(Criminal) 987	Hon’ble Supreme Court
2.	Ananda D.V. V. State and others 2021(OLR) 1074	
3.	Kapil Gupta v. State of NCT of Delhi and others 2022(4) R.C.R.(Criminal) 497	
4.	Jatin Aggarwal v. State of Telangana and others 2022(2)R.C.R(Criminal) 603	
5.	Ranjeet Kumar v. State of H.P. and others MANU/HP/2314/2013	Himachal Pradesh High Court (DB)
6.	Narinder Kaur @ Ninder Kaur and others v. State of Punjab and others CRM-M-41204-2020	Punjab and Haryana High Court
7.	Ashik Ramjan Ansari v. The State of Maharashtra and others 2023 CriLJ 3633	Bombay High Court
8.	Sabari v. Indpector of Police, Belukurichi Police Station and others 2019(3) R.C.R(Criminal) 452	Madras High Court
9.	Jitender Kumar Sharma v. State and others 2010(4) R.C.R.(Criminal) 20	Delhi High Court (DB)
10.	Skhemborlang Suting and others v. State of Meghalaya and others MANU/MG/0054/2022	Meghalaya High Court



11.	Tarun Vaishnav v. State of Rajasthan and others MANU/RH/16181/2022	Rajasthan High Court
12.	Kundan and another v. State and others CrI.M.C. 27/2022	Delhi High Court
13.	Devendranath v. State of U.T. Chandigarh and Others CRM-M-23281-2023	Punjab and Haryana High Court

6. The marriage between two persons who do not satisfy the age criterion, as laid down by Section 5 of the Hindu Marriage Act, 1955, does not become void *ab inito*. Such a marriage would be voidable at the instance of the minor party. Therefore, in absence of such declaration in view of the Prohibition of Child Marriage Act, 2006, the marriage subsists and the husband can be the legal guardian of his minor wife, as reaffirmed by a Division Bench of this Court in ***Mamta v. Rohan Verma 2022(2) R.C.R.(Civil) 349***. A Full Bench of Delhi High Court in ***Court on its Own Motion(Lajja Devi) versus State 2012(4) CCR 72*** has held that if the girl is more than 16 years of age and makes a statement to the effect that she left of her own volition and records a statement indicating that the consent was without any force, coercion or undue influence, the Court will be within its power to accept the statement and quash proceedings under Sections 363 or 376 of the IPC. It has been further held that the FIR can be quashed if after attaining the age of majority, she affirms and reiterates her consent.

7. In view of above facts and circumstances, the present petition is allowed.

8. Accordingly, the FIR No.0036 dated 31.03.2016 registered under



Sections 363, 366-A, 34 of IPC, Section 12 of Protection of Children from Sexual Offences Act, 2012 and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Women Palwal, District Palwal, are quashed qua the petitioner Nos.2 and 3.

October 14, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |