



petitioner and respondent No.3 have solemnized marriage and out of the wedlock, they are blessed with a child and the FIR (supra) has been registered by respondent No.2 (father of respondent No.3), who was not happy with their relationship. The reliance in this regard has been placed upon the marriage certificate (Annexure P-2). Learned counsel for the petitioner further submits that since petitioner and respondent No.3 have solemnized their marriage with free will and are peacefully leading their matrimonial life together, the offences under Sections 363 and 366-A IPC cannot be made out and jurisdictional police authorities, without verifying the veracity of the allegations, registered the FIR (supra). Therefore, continuation of proceedings in FIR (supra) would be an abuse of process of law. Learned counsel places reliance on 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	Punjab and Haryana High Court



	CRM-M-41204-2020	
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

4. There is no representation on behalf of the respondent Nos.2 and

3.

5. Reply dated 04.05.2021 filed by way of an affidavit of Jashandeep Singh Gill, PPS, Assistant Commissioner of Police (South), Ludhiana, District Ludhiana filed on behalf of respondent No.1-State is taken on record. Perusal of para 3 of the reply indicates that ASI Sohan Singh, after obtaining the arrest warrants visited the village of the petitioner in Uttarakhand and during



interrogation, he came to know that petitioner had fallen in love with respondent No.3. He has solemnized marriage with her and has also got the marriage registered and now both of them are residing together peacefully.

6. *Per contra*, learned State counsel, submits that at the time of marriage respondent No.3 was minor. As such, said marriage is not legal and valid in the eye of law. The FIR (supra) was registered after a complaint made by respondent No.2, however, he could not controvert the fact that the petitioner and daughter of respondent No.2 have performed marriage with each other.

7. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that respondent No.3 solemnized marriage with petitioner on 27.10.2019. 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.



8. Respondent No.3 has now attained the age of majority and wants to continue with her matrimonial life and she is happily married to the petitioner. 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.3 bereft of financial and emotional support. Thus, no useful purpose would be served by continuing the proceedings as the chances of conviction are abysmal. The continuance of the present proceedings in the present case would be nothing but wastage of valuable judicial time, especially, when the Courts are already over-burdened.

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

10. Accordingly, the FIR No.0112 dated 14.05.2019 registered under Sections 363/366-A IPC at Police Station Sahnewal, District Police Commissionerate Ludhiana and all other consequential proceedings arising therefrom, are quashed qua the petitioner.

August 21, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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