



petitioner and respondent No.2 were in a consensual relationship and ultimately, they performed love marriage and the FIR (supra) was lodged by the complainant/respondent No.3 as she opposed the relationship of the petitioner and respondent No.2. It is further contended that respondent No.2 has married with the petitioner with her own sweet will. The date of birth of respondent No.2 is 04.10.2004 and now she has attained majority. Learned counsel further submits that even in statement of prosecutrix under Section 164 Cr.P.C., she stated that she went with petitioner with her own will. Since, performing the marriage, the petitioner and respondent No.2 are cohabiting together as husband and wife and out of the wedlock, a female child was born. Learned counsel for the petitioner further submits that since petitioner and daughter of respondent no.2 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 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
1.	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. Inspector 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 Crl.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
14.	Madan Lal and others vs. State of Punjab and another 2017 (3) R.C.R. (Criminal) 403	Punjab and Haryana High Court



4. There is no representation on behalf of respondent No.3. Learned counsel for respondent No.2 affirms the aforesaid factum and submits that petitioner and respondent No.2 are married and cohabiting together peacefully as husband and wife.

5. Per contra, learned State counsel, on instructions from ASI Mukesh Devi, affirms the fact that petitioner and prosecutrix/respondent No.2 are cohabiting together as husband and wife. Learned State counsel further submits that the prosecutrix has turned hostile in her testimony before the learned trial Court.

ANALYSIS & OBSERVATION

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that respondent No.2 solemnized marriage with petitioner in the year 2020. 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. Respondent No.2 has now attained the age of majority and wants to continue with her matrimonial life and her statement dated 21.02.2023 is also annexed as Annexure P-4, wherein she has asserted that she left with the petitioner with her own consent and is happily married to him. 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. 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.

CONCLUSION

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

9. Accordingly, the FIR No.469 dated 09.09.2020 (Annexure P-1) registered under Sections 363, 366-A and 376(3) of IPC, 1860 (Section 376(2)(n) IPC added later on) and Section 6 of The Protection of Children From Sexual Offences Act, 2012 at Police Station Sadar Pehowa, District Kurukshetra, Haryana and all other consequential proceedings arising therefrom, are quashed qua the petitioner.

July 25, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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