



respondent No.3 are cohabiting together as husband and wife. As such, FIR (supra) lodged by respondent No.2-complainant is nothing but an abuse to the process of law.

Notice of motion returnable for 24.10.2024.”

3. Mr. Lakhan Paul Garg, Advocate has put in appearance on behalf of respondent No.3 and filed his *vakalatnama* which is taken on record. Registry is directed to tag the same at the appropriate place. Learned counsel has also filed reply by way of affidavit of respondent No.3 dated 07.09.2024, which is also taken on record and submits that he has no objection in case, the FIR (supra) is quashed qua the petitioners.

4. Learned counsel for the petitioners submits that respondent No.2 is only informant and the case of the petitioners is squarely covered by the ratio of law laid down in ***K. Dhandapani v. The State 2022(2) R.C.R.(Criminal) 987*** and ***Devendranath v. State of U.T. Chandigarh and Others*** bearing No.***CRM-M-23281-2023***.

5. Moreover, a Full Bench of Delhi High Court in '**Court on its Own Motion (Lajja Devi) Vs. State**' 2012 (4) CCR 72, has categorically held that in case, the prosecutrix/victim 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 IPC. It has been further held that the FIR (supra) can be quashed if after attaining the age of majority, she affirms and reiterates her consent.

6. 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 No.1. 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.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.

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

9. Accordingly, the FIR No.43 dated 07.07.2012 under Sections 363,



366-A, 34 of IPC registered at Police Station Bariwala, District Muktsar (Annexure P-1) and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

October 24, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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