



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(259)

CRM-M-25992-2025 (O&M)

Date of Decision: 28.5.2025

Shubham Tiwari

.....Petitioner

Versus

State of U.T. Chandigarh and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Davinder Lubana, Advocate
for the petitioner.

Mr. Balram Singh, Addl. P.P.,
for the respondent-U.T.

Mr. Abhishek Lubana, Advocate
for respondent No. 2.

KIRTI SINGH, J. (ORAL)

CRM-22370-2025

The application is allowed as prayed for.

Short reply of complainant by way of affidavit, is taken on
record.

CRM-M-25992-2025

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for quashing of FIR No. 14 dated 15.3.2023, under Sections 376(2) IPC and under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short '*the POCSO Act*'), registered at Police Station I.T. Park, U.T., Chandigarh and all other consequential proceedings arising therefrom.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present FIR on the complaint made by the



prosecutrix (respondent No. 2 herein) alleging that the petitioner had established physical relationship with her on various occasions on the false pretext of marrying her. Learned counsel further submits that the petitioner and the prosecutrix were known to each other, as was admitted by the prosecutrix in her complaint. He further submits that during the pendency of the trial, a compromise (Annexure P-2) was effected between the parties on 21.8.2023, wherein it was settled that the petitioner shall perform marriage with respondent No. 2. Accordingly, the petitioner and respondent No. 2 had solemnized marriage on 5.11.2023. Even since, both parties are residing happily together as husband and wife and respondent No. 2 does not want to take any action against the petitioner. The parties also have a child from their wedlock, who is less than a year old. Learned counsel for the petitioner submits that respondent No. 2 has also filed an affidavit to this effect. The said affidavit dated 17.5.2025 reads thus:-

“1. That it is submitted that a compromise dated 21.8.2023 was affected upon between petitioner/accused through his parents as well as complainant-respondent No. 2 along with my parents with the intervention of relatives, friends and respectables, which is Annexure P-2.

2. That on 5.11.2023 the petitioner had solemnized marriage with the complainant at Mata Mansa Devi Temple, Panchkula and residing together as husband and wife at the House No. 203, Village Kajheri, Sector-52, Chandigarh. Marriage Certificate is Annexure P-3.

3. That the petitioner and the complainant-respondent No. 2 are residing happily together and both were blessed with baby boy namely Divyansh Tiwari on 4.2.2025. Birth certificate of the child is Annexure P-4.

4. That the petitioner has also annexed the Aadhaar card of the deponent/complainant, which is Annexure P-6.

5. That Subhash Chand, father of the deponent has also given a duly notarized affidavit, affirming the above said facts of the



compromise, marriage and birth of child. The attested copy of affidavit I Annexure R2/1.”

It is thus prayed that since the parties are happily married and have also been blessed with a child, therefore, the criminal proceedings that are looming large over the petitioner be quashed

3. Per contra, the learned State counsel opposes the instant petition and files short reply by way of an affidavit of Deputy Superintendent of Police, North-East Division, U.T., Chandigarh, which is taken on record.

4. In compliance of the order dated 15.5.2025, both the parties are present in Court. After this Court interacting with both the parties, they submit that they have performed marriage and are residing happily together. Moreover, the prosecutrix also made a submission to the effect that she does not wish for the criminal proceedings against the petitioner to continue.

5. The Hon’ble Supreme Court in ***K. Dhandapani vs. The State by the Inspector of Police, Criminal Appeal No. 796 of 2022***, though explicitly held for the judgment to not be treated as a precedent, set aside the conviction and order of sentence of the maternal uncle of the prosecutrix who had married her and had a family with her. While commenting on the need to acknowledge the peculiar facts of the case, it was opined that, “..This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix...”

6. The Rajasthan High Court in ***Tarun Vaishnav vs. State of Rajasthan and another, S.B. Criminal Misc.(Pet.) No. 6323/2022, decided on 13.10.2022***, SLP against which was dismissed on 03.03.2023, set aside the FIR against the petitioner accused of corresponding allegations as in the present case by observing that, “15. The petitioner’s prosecution and conviction will lead to pain and tears in the eyes of the family members of



both the parties and future of two families, and above all, an innocent child will be at stake, whereas, if the impugned FIR is quashed, it would serve the ends of justice.”

7. ***In Sonu @ Sunil vs. State of NCT of Delhi and others, CRL.M.C. 4168/2022***, decided on 26.04.2024, the Delhi High Court, while quashing an FIR based on similar facts, observed that, “26. Of late, however, the Courts are faced with petitions where children, who are about to attain the age of majority, in ignorance of the statutory prohibitions and restrictions and consequences, in the name of love, commit acts which would otherwise amount to offence under the provisions of the Child Marriage Act, POCSO Act, and the IPC. Though, being minor, their consent is immaterial, however, factually it is there. This situation makes the Courts face with two consequences, either to go strictly by the mandate of the statute and convict the boy and impose punishment on him, which is rather severe in these statutes, or to exercise its power under Section 482 of the Cr.P.C. to protect the otherwise innocent children/adult by quashing the criminal proceedings. The Courts when faced with such a dilemma, has been adopting the route of exercising its power under Section 482 of the Cr.P.C., to quash such criminal proceedings where it finds that the girl was nearing the age of majority; had gone with the boy of her own free will (though it may be immaterial in law); is happily living with the boy, either in matrimony or otherwise, after attaining the age of majority; and in some circumstances where such relationship has also resulted in children being born. The Court, in such circumstances, is persuaded to save the lives of such an accused, rather than to make him undergo trial and eventual punishment, which would not only ruin innocent lives of the parties to such a relationship, but may be, also of the children that are born therefrom...” In conclusion, it was held by the



Court that, “28. As noted hereinabove, though the respondent no.3 was a minor when she eloped with the petitioner, and may be when they solemnized their marriage, she states that she is happily living with the petitioner, and the two children, who have been born from the wedlock. In such a scenario, to continue to prosecute the petitioner would in fact be to punish the respondent no.3, who the law sees as a victim. It would also punish the two children for no fault of theirs. It will ruin four lives and no person shall gain therefrom.”

8. Reverting to present petition, this Court is of the considered view that since the petitioner and the prosecutrix-respondent No. 2 are now happily married and have been also blessed with a child, continuing with the criminal proceedings will cause undue harassment to the petitioner, as also to respondent No. 2.

9. As a fallout, the present petition is allowed and FIR No. 14 dated 15.3.2023, under Sections 376(2) IPC and under Section 6 of the POCSO Act, registered at Police Station I.T. Park, U.T., Chandigarh and all other consequential proceedings arising therefrom are quashed qua the petitioner.

10. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

May 28, 2025
Gurpreet Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No