



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(266)

CRM-M-27544-2025 (O&M)

Date of Decision: 28.5.2025

Samsad

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Tushar Gautam, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Roshan Lal Saini, Advocate
for respondent No. 3.

KIRTI SINGH, J. (ORAL)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for quashing of FIR No. 46 dated 28.1.2022, under Sections 363, 366-A, 506, 120-B IPC and under Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short '*the POCSO Act*'), registered at Police Station Sadar Nuh, District Nuh and all other consequential proceedings arising therefrom.

2. Learned counsel for the petitioner submits that the petitioner and the prosecutrix were known to each other and that the petitioner has been falsely implicated in the present FIR on the complaint made by the father of the prosecutrix (respondent No. 2 herein) alleging therein that the petitioner forcibly took her daughter on the false pretext of marriage. It is submitted that the prosecutrix in her statement under Section 164 Cr.P.C., recorded before the learned Magistrate concerned, has categorically stated



that she herself went with petitioner Samsad and wanted to live with him. Moreover, she has also not levelled any allegation of rape against the petitioner. Furthermore, the learned counsel submits that now the petitioner and the prosecutrix (respondent No. 3) have solemnized marriage on 09.03.2025, and, are residing happily together as husband and wife. He has placed reliance on the marriage certificate (Annexure P-5). It is also submitted that apprehending threat to their lives, the petitioner and respondent No. 3 had also filed a petition for seeking protection from this Court, which was disposed of on 8.5.2025 (Annexure P-6) with a direction to the officials to take appropriate action. It is thus prayed that since the parties are happily married, therefore, the criminal proceedings that are looming large over the petitioner be quashed.

3. Learned counsel for respondent No. 3 does not controvert the submissions made by the learned counsel for the petitioner. He submits that respondent No. 3 is happily married with the petitioner and does not wish for any action to be taken against him. In support of his submissions, the learned counsel places reliance on the affidavit of respondent No. 3 annexed as Annexure P-7.

4. The learned State counsel has filed reply by way of an affidavit of Deputy Superintendent of Police, HQ, Nuh, which is taken on record. It has been stated in the reply that on 17.4.2022, the victim was produced before the Court of the learned Magistrate concerned, for recording her statement under Section 164 Cr.P.C. Subsequently, her medical examination was got conducted on 18.4.2022. Learned State counsel submits that in view of the serious allegations levelled against the petitioner, the present petition be dismissed.

5. In compliance of the order dated 19.5.2025, 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.

6. 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...”

7. 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.”

8. ***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."

9. Reverting to present petition, this Court is of the considered view that since the petitioner and the prosecutrix-respondent No. 3 are now happily married, continuing with the criminal proceedings will cause undue



harassment to the petitioner, as also to respondent No. 3.

10. As a fallout, the present petition is allowed and FIR No. 46 dated 28.1.2022, under Sections 363, 366-A, 506, 120-B IPC and under Section 4 of the POCSO Act, registered at Police Station Sadar Nuh, District Nuh and all other consequential proceedings arising therefrom are quashed qua the petitioner.

11. 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