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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1130/2025 & CRL.M.A. 5094/2025, CRL.M.A. 5095/2025
ASLAN KHAN & ORS.Petitioners

Through: Ms. Sunita Arora, Advocate.
Petitioners in person.

versus

THE STATE & ANR.Respondents
Through: Mr. Mukesh Kumar, APP for State.
SI Pooja Saraswat, PS: Tigri.
R-2 in person.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
29.07.2025

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1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 482 of the Code of Criminal Procedure, 1973²) seeks quashing of FIR No. 0277/2024 registered under Section 376 of the Indian Penal Code, 1860³ and Sections 6 and 12 of the Protection of Children from Sexual Offences Act, 2012⁴, at P.S. Tigri, and all proceedings emanating therefrom. Subsequently, a chargesheet has also been filed against the Petitioners under Section 376 of IPC, Sections 6 and 12 of POCSO Act and Section 9 and 11 of the Prohibition of Child

¹ "BNSS"

² "Cr.P.C."

³ "IPC"

⁴ "POCSO Act"



Marriage Act, 2006⁵.

2. Briefly, the case of the prosecution against the Petitioners is that on 4th July, 2024, an MLC was received from Pt Madan Mohan Malaviya Hospital *vide* DD No. 41A at P.S. Tigri, concerning a minor child who was pregnant. The investigation was entrusted to SI Ankita, who reached the Hospital and in the presence of a Counsellor from Delhi Commission for Women, recorded the statement of the Prosecutrix on the basis of which the impugned FIR was filed.

3. In her statement, the Prosecutrix stated that she and her family belong to the lower strata of society. Her mother works as a housemaid in bungalows and through her work she met Petitioner No. 3 – the mother of Petitioner No. 1. Over time, after developing a cordial and friendly relation, both of them mutually, through the help of Petitioner No. 2 [the aunt of the Prosecutrix (*Mami*)] arranged the marriage of the Prosecutrix with Petitioner No. 1 and with the full consent of the Prosecutrix, the marriage was solemnised on 11th December, 2023 as per Muslim rites and customs. Thereafter, the couple started to wilfully reside together in matrimony and eventually, the Prosecutrix conceived a child. When she went for a health check-up at 6 months of gestation, the Doctor in the Hospital asked for her date of birth and aadhar card, which she disclosed and afterwards the Doctor notified the Police. Pertinently, in her statement to the police, she stated that she had given her consent at the time of marriage and she maintained this stance before the Magistrate during the recording of her statement under Section 164 of the Cr.P.C.

4. During investigation, the school documents of the Prosecutrix were

⁵ “Child Marriage Act”



obtained from her village in Uttar Pradesh, where she first attended school and according to the said documents, it is clear that the Prosecutrix was a minor at the time of commission of the offence.

5. Therefore, on being satisfied of the commission of cognizable offences, the chargesheet in the present case was filed against Petitioner No. 1 – the husband of the Prosecutrix, Petitioner No. 2 – her aunt who arranged the marriage, Petitioner No. 3 – her mother-in-law, and Petitioners No. 4 and 5 – who are her mother and father respectively.

6. Given the seriousness of the offences for which the Petitioners have been chargesheeted pursuant to the FIR, the Court has closely examined the factual matrix of the present case and has also interacted with the Prosecutrix – Respondent No. 2, who is present in person.

7. She submits that she has no dispute or difference with the Petitioners and does not wish to pursue the present FIR against them. She confirms that her marriage with Petitioner No. 1 was without any coercion and she had voluntarily consented to the same. She further submits that at the time of her marriage she was 17 years and 11 months and since then, she has attained the age of majority. She states that a male child has been born to her as a result of the pregnancy and she is happily living at her matrimonial home with Petitioner No. 1 and their child, without any grievance whatsoever. As such, she does not wish to pursue the FIR and has no objection if the same is quashed. An affidavit to this effect has also been filed by Respondent No. 2 and the same is on record.

8. The Petitioners have also joined the proceedings in person and are duly identified by the Investigating Officer. In light of the amicable



resolution of disputes and Respondent No. 2's no objection, the Petitioners seek quashing of the subject FIR and all proceedings arising therefrom.

9. The Court has considered the submissions of the parties. The present case presents a peculiar predicament for the Court. The offences alleged in the subject FIR are under Section 376 of IPC and Sections 6 and 12 of POCSO Act, which are non-compoundable and are serious and heinous offences. The Court is conscious that such charges ought not to be ordinarily quashes merely on the basis of the fact that the parties have mutually decided to resolve the dispute, are married and are co-habiting together. Offences of this nature are not purely personal in character, rather they are considered offences against society at large. However, it is well settled that in the exercise of its inherent powers under Section 482 CrPC (now Section 528 BNSS), the Court may, in appropriate cases, quash proceedings in respect of non-compoundable offences if the factual matrix and larger interest of justice so warrants.

10. At this juncture, it is relevant to note that this Court, in ***Ajay Kumar Paswan v. State of NCT of Delhi & Ors.***⁶ and ***Kundan & Anr. v. State & Ors.***⁷ has, while exercising jurisdiction under Section 482 of the CrPC, quashed FIRs involving allegations under Section 376 IPC and Section 6 of the POCSO Act, where the parties had subsequently married and arrived at a genuine settlement. Similarly, a Coordinate bench of this Court in CRL. M.C. 4168/2022 titled as ***Sonu @ Sunil v. State of NCT of Delhi*** vide judgment dated 26th April, 2024 observed as under:

“26. Of late, however, the Courts are faced with petitions where children, who are about to attain the age of majority, in ignorance of

⁶ CRL M.C. 3203/2022

⁷ CRL M.C. 27/2022



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 this regard, apart from the judgments that have been cited by the learned Amicus, I may also refer to the judgment of the Supreme Court in Kapil Gupta v. State of NCT of Delhi, 2022 SCC OnLine SC 1030, wherein the Supreme Court, while quashing an FIR and consequential proceedings where the accused had been charged with offence under Section 376 of the IPC, observed as under:—

“13. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

14. The Court has further held that it is also relevant to consider as to what is stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.”



11. In view of the above, the peculiar facts of the present case must be noted. The Prosecutrix and Petitioner No. 1 got married to each other on 11th December, 2023 as per Muslim rites and customs. At the time, the Prosecutrix is stated to be 17 years and 11 months, 1 month shy of being a major. Since then, the parties established their matrimonial relationship and a child has been born. It is not the case of the prosecution that the physical relations between Petitioner No. 1 and the Prosecutrix were non-consensual in nature or involved criminal force, rather due to the age of the Prosecutrix, when she went to a hospital for a check-up after getting conceiving a child, it was the doctor who intimated the police as per the requirement under law. The Prosecutrix has also unequivocally stated in her statement before the police as well as the Magistrate that she has consented to the marriage and does not want any prosecution.

12. Therefore, in the present case, the possibility of the FIR culminating in a conviction appears remote given the Prosecutrix's unwillingness to pursue the matter. In the considered view of the Court, allowing the prosecution to continue would serve no useful purpose and would only prolong unnecessary litigation. Quashing the proceedings, on the other hand, would advance the cause of justice and restore peace between the parties. Accordingly, this Court is of the view that the continuance of criminal proceedings is neither warranted nor expedient and as such this Court finds the present case to be an appropriate one for exercise of jurisdiction under Section 528 of BNSS to secure the ends of justice.

13. In view of the foregoing, the present petition is allowed FIR No. 0277/2024 registered under Section 376 of the IPC and Sections 6 and 12 of POCSO Act, at P.S. Tigri, as well as all consequential proceedings arising



therefrom are hereby quashed.

14. The present petition is allowed and disposed of along with pending application(s).

JULY 29, 2025
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SANJEEV NARULA, J