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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 3386/2025 & CRL.M.A. 14954/2025**
FAIZ HUSSAINPetitioner

Through: Mr. Sachin Kr. Tokas and Mr.
Jitender, Advocates.

versus

STATE GOVT OF NCT OF DELHI & ANRRespondents
Through: Mr. Mukesh Kumar, APP for State.
SI Akashdeep, P.S. Jamia Nagar.
Respondent No. 2. (in-Person).

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
25.07.2025

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1. The present petition filed 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. 184/2024 dated 9th May, 2024, registered under Sections 363 and 376 of Indian Penal Code, 1860³ read along with Sections 6 and 21 of the Protection of Children from Sexual Offences Act, 2012⁴ at P.S. Jamia Nagar, Delhi and all proceedings emanating therefrom.

2. Petitioner No. 1 is the husband of Respondent No. 2, while Petitioner No. 2 is her father-in-law. The marriage between Petitioner No. 1 and Respondent No. 2 was solemnized on 26th September, 2024, according to Muslim rites and customs. There is no child from the said marriage.

¹ "BNSS"

² "CrPC"

³ "IPC"



3. Briefly stated, the case of the prosecution is as follows:

3.1. On 8th May, 2024, a PCR call regarding an incident of sexual assault was received at P.S. Jamia Nagar, Delhi, *vide* DD No. 57. The Complainant/Respondent No. 2 (Ms. 'X'), who was 17 at the time of filing of the complaint, was examined, counselled, and medically assessed. In her medical examination, it was recorded that "Faiz had sexual intercourse with the Victim".

3.2. Subsequently, her statement was recorded, wherein she stated that she had voluntarily eloped with her neighbour Faiz (Petitioner No. 1) on 14th July, 2024. She further stated that she voluntarily engaged in physical relations with him. The next day, when they were brought back by Mehraj Hussain (Petitioner No. 2), who is the father of Petitioner No. 1, he assured the Complainant that he would get her married to Petitioner No. 1 once she turns Adult. However, she later discovered that Petitioner No. 2 had fixed Petitioner No. 1's marriage elsewhere. Based on her complaint, the FIR was registered.

3.3. On 9th May, 2024, the accused was taken into custody and produced before the Trial Court. On the same day, the Complainant's statement was recorded under Section 164 of CrPC, wherein she did not corroborate the allegations made in the FIR. During the course of investigation, the age of the Complainant was verified, and her date of birth was found to be 3rd September, 2006. Upon completion of the investigation, a charge sheet was filed under the same sections before the Trial Court. At present, the Petitioners are on bail.

4. Since the case involves offences lodged under Sections 363 and 376

⁴ "POCSO Act"



of IPC and Section 6 and 21 of POCSO Act, the Court has carefully examined the facts of the case and has also interacted with Respondent No.2, who is present before the Court in person. She clarifies to the Court that the FIR was registered on the basis of a misunderstanding and that she was in a consensual loving relationship with Petitioner No. 1. It is further noted that in her statement recorded under Section 164 of CrPC, Respondent No. 2 entirely denies the allegations made in the FIR. On the contrary, she explains, she went with the Petitioner No. 1 on her own free will without informing anyone at home.

5. Pertinently, she also states that both she and Petitioner No. 1 had mutually decided to get married and settle down with one another. This decision, she asserts, was made independently and without any pressure or undue influence. The Nikah Nama of Petitioner No. 1 and Respondent No. 2 was verified from the concerned Masjid i.e., Moulana Ahmad Jarool Qasmi, Farash Khana, and was found to be genuine. The marriage has also been registered under the Special Marriage Act, 1954. This fact has been confirmed by the Investigating Officer, and the Certificate of Marriage under the Special Marriage Act has also been taken on record.

6. Upon a specific query posed by the Court, Respondent No. 2, who is now an Adult, reiterates her stand and expressly refutes the allegations made in the impugned FIR. She confirms that her statement recorded under Section 164 of CrPC reflects the true and correct version of events and that she harbours no grievance against the Petitioners. She states that she does not wish to pursue the prosecution or continue with the present case. In this regard, her Affidavit/No Objection Certificate is on record. In view of the foregoing, the parties jointly pray for the quashing of the impugned FIR.



7. The Court has considered the aforementioned facts and submissions of the parties. The offences alleged in the subject FIR are under Section 363 and 376 of IPC as well as Sections 6 and 21 of POCSO Act, which are all non-compoundable offences. The Court is conscious that such charges cannot ordinarily be quashed merely on the basis of a settlement between the parties. Offences of such nature are not strictly ‘*in personam*’, rather, they are considered offences against the society at large. However, this Court, in appropriate and exceptional circumstances, has exercised its inherent jurisdiction under Section 528 of BNSS (corresponding to Section 482 of CrPC) to quash criminal proceedings, where the factual matrix and the interest of justice so warranted.

8. At this juncture, it is relevant to note that this Court, in ***Ajay Kumar Paswan v. State of NCT of Delhi & Ors.***⁵ and ***Kundan & Anr. v. State & Ors.***⁶ has, while exercising jurisdiction under Section 482 of the CrPC (corresponding to Section 528 of BNSS), 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*** by 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 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

⁵ CRL. M.C. 3203/2022

⁶ CRL. M.C. 27/2022



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.”

9. In view of the above, the peculiar facts of the present case merit close and careful consideration. It is relevant to note that Petitioner No. 1 and



Respondent No. 2 solemnized their marriage on 26th September, 2024, and are presently residing together peacefully. Respondent No. 2, who was just few months short of the legal age of marriage at the time of the allegations, has appeared before the Court in person and has unequivocally stated that the allegations made in the FIR are untrue and that she was actually in a consensual loving relationship with the Petitioner. Moreover, their marriage has been registered under the Special Marriage Act, 1954, a fact which has been confirmed by the Investigating Officer. She has, further, categorically expressed her unwillingness to pursue the matter further. Given this background, the continuation of criminal proceedings would amount to an empty formality, adding to the burden of the justice system and consuming public resources unnecessarily. Having regard to the totality of circumstances, and in view of the legal principles laid down by the Supreme Court, this Court finds the present case to be an appropriate one for exercise of jurisdiction under Section 528 of BNSS (corresponding to Section 482 of CrPC) to secure the ends of justice.

10. In view of the foregoing, the present petition is allowed and FIR No. 184/2024 dated 9th May, 2024, registered under Sections 363 and 376 of IPC read along with Sections 6 and 21 of POCSO Act at P.S. Jamia Nagar, Delhi and all proceedings emanating therefrom are hereby quashed.

11. The parties shall remain bound by the terms of settlement.

12. Accordingly, the petition is disposed of along with pending application(s).

SANJEEV NARULA, J

JULY 25, 2025/as