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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 7304/2023**

ARMAN

.....Petitioner

Through: Ms. Tarannum Khan, Advocate along
with petitioner and his mother in
person.

versus

THE STATE AND ANR

.....Respondents

Through: Mr. Pradeep Gahlot, APP for the
State with SI Ramakant, P.S. Sadar
Bazar.
R-2 in person along with her mother in
person.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

28.05.2025

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1. This hearing has been done through hybrid mode.
2. The present petition under Section 482 of the Code of Criminal Procedure, 1973, (for short, 'CrPC') has been filed seeking quashing of FIR No. 1005/2023, under Section 376 of the Indian Penal Code, 1860, (for short, 'IPC'), Section 4 of the Protection of Children from Sexual Offences Act, 2012, (for short, 'POCSO Act') and Sections 9/11 of the Prohibition of Child Marriage Act registered at Police Station Sadar Bazar, and subsequent proceedings emanating therefrom including the chargesheet pending in the Court of Sh. Muneesh Garg, learned ASJ POCSO (Central), Tis Hazari Courts, Delhi



3. On the basis of an information received on 21.08.2023 *vide* DD No. 48 A from a nurse working at Lady Hardinge Hospital regarding a girl who was 6 months pregnant, the IO reached the said hospital and received MLC No. 163/23 wherein the doctor stated that the patient is 16 years 07 months of age as per the Aadhar Card and she is 6 months pregnant. There was no mention of any forceful intercourse in the said MLC. Thereafter, the survivor i.e. respondent no.2 was taken to the police station alongwith her mother and her statement was recorded wherein she stated that she got married to the present petitioner when she was 15 years old and was residing with the petitioner and her in-laws in Ghaziabad. She further stated that the petitioner made physical relations with her and she got pregnant. On 21.08.2023 she went to Lady Hardinge Hospital alongwith her mother where the doctor checked her Aadhar Card and informed the police. She further stated that her date of birth in the Aadhar Card is 01.01.2007.

4. During the course of investigation, notice under Section 41A of the CrPC was served to her mother and she stated that she belongs to a very poor and illiterate family. She further stated that her daughter looked 18 years of age as per her physical appearance due to which she decided to get her married and did not pay attention to her actual age.

5. Thereafter, the statement of respondent no.2 dated 23.08.2023 was recorded under Section 164 of the CrPC wherein she stated that her date of birth in the Aadhar Card is of the year 2007 however, she is 20 years old and was married on 08.05.2022 when she had attained majority. She further stated that there is no foul play and she got married out of her own free will and with the consent of her parents. The girl also produced her marriage certificate as per which her marriage was solemnized on 08.05.2022. During investigation



certain documents were procured from the school of the girl and as per the school records her date of birth was 01.01.2007. Respondent No.2 was also produced before the Child Welfare Committee and considering her medical need and emotional attachment to her family she was restored to her mother.

6. Notice under Section 41A of the CrPC was also issued to the brother-in-laws of the girl who were present in the marriage and upon interrogation that stated that they were not aware of the fact that the girl was below 18 years of age. After the completion of investigation chargesheet was filed before the learned Trial Court without arrest on 11.12.2023.

7. Learned counsel appearing on behalf of the petitioner submits that petitioner had married respondent no.2 as per muslim rites and customs on 08.05.2022 and out of the said wedlock respondent no.2 got pregnant and she wants to peacefully reside with the petitioner at their matrimonial home. He further submits that respondent no.2 in the FIR as well as her statement under Section 164 of the CrPC dated 23.08.2023 has admitted that they got married out of their own free will. Respondent no.2 further states in her Section 164 CrPC statement that in Aadhar Card her date of birth is of the year 2007 but she is 20 years old and was 18 years old when she got married to the petitioner. Learned counsel for the petitioner relied on the judgment passed by the learned Co-ordinate Bench of this Court in ***Fija & Anr. v. State Govt. of NCT of Delhi & Ors***, wherein it has been taken note that a muslim girl has the right to reside with the husband even if she is less than 18 years of age. The relevant extract of the said order is set out below: -

12. Petitioner No. 1 eloped with the petitioner No.2 out of her own free will and consent and got married on 11.03.2022.

13. I have heard learned counsel for the parties.

14. The High Court of Punjab and Haryana at Chandigarh in CRWP



5744/2022 titled 'Gulam Deen and another vs. State of Punjab and others' has held: -

*"In the case of **Yunus Khan** (supra) it has been noted that the marriage of a Muslim girl is governed by the personal law of the Muslims. Article 195 from the book 'Principles of Mohammedan Law by Sir Dinshah Fardunji Mulla' has also been reproduced in the said decision which Article reads as under:*

'195. Capacity for marriage –

(1) Every Mohomedan of sound mind, who has attained puberty, may enter into a contract of marriage.

(2) Lunatics and minors who have not attained puberty may be validly contracted in marriage by their respective guardians.

*(3) A marriage of a Mahomedan who is sound mind and has attained puberty, is void, if it is brought about without, his consent. Explanation – **Puberty is presumed, in the absence of evidence, on completion of the age of fifteen years.**"*

*15. It is thus clear that as per Mohammedan Law girl who had attained the age of puberty could marry without consent of her parents **and had right to reside with her husband even when she was less than 18 years of age and thus otherwise minor girl.**"*

8. The petitioner and respondent no.2 are present in Court and have been correctly identified by the Investigation Officer SI Rama Kant as well as their counsel. She submits that she has no objection of the present FIR alongwith all other proceedings emanating therefrom including the chargesheet pending is quashed. She submits that she has given birth to one girl child and wants to live peacefully with the petitioner in their matrimonial home. Mother of respondent no.2 is also present in the Court and submits that the latter was 18 years old at the time of marriage.

9. Perusal of the statement recorded under Section 164 of the CrPC of respondent no.2, shows that they had got married and stayed together. As per



the case of the prosecution respondent no.2 was 15 years old at the time of her marriage. However, in her statement under Section 164 of the CrPC she has clearly stated that she is 20 years old and she was 18 years old when she got married. It is pertinent to note that the present FIR was registered on account of the fact that respondent no.2 was allegedly a minor at the relevant period.

10. The petitioner and respondent no.2 are now blessed with a girl child and want to reside peacefully at their matrimonial home.

11. In these circumstances, the lives of the petitioner, respondent no.2 as well as their child are at stake. Thus, in peculiar facts and circumstances of the present case, this Court is of the considered opinion that no useful purpose will be served in continuing with the present FIR No. 1005/2023, under Section 376 of the IPC, Section 4 of the POCSO Act and Sections 9/11 of the Prohibition of Child Marriage Act registered at Police Station Sadar Bazar, and subsequent proceedings emanating therefrom including the chargesheet pending in the Court of Sh. Muneesh Garg, learned ASJ POCSO (Central), Tis Hazari Courts, Delhi.

12. In the interest of justice, the present FIR No. 1005/2023, under Section 376 of the IPC, Section 4 of the POCSO Act and Sections 9/11 of the Prohibition of Child Marriage Act registered at Police Station Sadar Bazar, and subsequent proceedings emanating therefrom including the chargesheet pending in the Court of Sh. Muneesh Garg, learned ASJ POCSO (Central), Tis Hazari Courts, Delhi, is hereby quashed.

13. The petition is allowed and disposed of accordingly with all pending applications, if any.

14. Copy of the order be sent to the concerned learned Trial Court for necessary information and compliance.



15. Order be uploaded on the website of this Court *forthwith*.

MAY 28, 2025/

AMIT SHARMA, J

Click here to check corrigendum, if any