

25.02.2026
Ct. No. 06
Item 09
Cp

C.O. 465 of 2026

Goyram Barman
Vs.
Madhumita Barman

Mr. Sounak Bhattacharya
Mr. Sounak Mandal
Mr. Abhirup Halder
Ms. Bipasha Bhattacharyya

.....for the petitioner.

The order of dismissal of Mat Suit No.117 of 2025 is an appealable order and, as such, the petitioner is directed to prefer an appeal in accordance with law.

However, it appears to this court that a direction was passed by the learned Additional District Judge, 1st Court, Contai upon the OC, Bhagwanpur Police Station to treat the order of dismissal of the Mat Suit as a First Information Report under Section 19 of the POCSO Act. Admittedly, the wife is 28 years old and the husband is 32. They have a 10 years old child. They applied for divorce on mutual consent by filing an application under Section 13B of the Hindu Marriage Act.

Under Section 3 of the Prohibition of Child Marriage Act, 2006, child marriages are voidable at the option of the contracting party. Sub-Section (6) of Section 219 of BNSS provides that no court shall take cognizance of

offence under Section 64 of the BNS where such offence consists of sexual intercourse by a man with his wife and the wife being under 18 years of age, in the event more than one year had lapsed on the date of commission of the offence.

In the case in hand, the marriage was solemnized on May 1, 2013, when the wife was allegedly 17 years and 9 months of age. They lived together and had a son. The marriage continued over a period of more than 9 years. Then they applied for divorce on mutual consent.

It is informed that no complaint was raised either by the wife at any stage or from her family that the marriage was solemnized without the consent.

Although this order appears to be suffering from jurisdictional error, the proper remedy of the petitioner at this stage would be to make an immediate prayer before the appeal court for stay, as the direction of the court is a part of the order of dismissal of the Mat Suit. The petitioner also has remedy under the criminal laws.

Liberty is granted to take back the certified copy of the order impugned, upon furnishing a photocopy thereof.

Accordingly, the revisional application is disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)