



\$~16

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

+ **CRL.M.C. 2228/2025**

SHAHNAWAZ SAIFI @ SHANUPetitioner

Through: Mr. Prateek Bhardwaj, Advocate
alongwith Petitioner in Person.

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Tarang Srivastava, APP for
State.

SI Amit – PS: Ranhola
Mr. Rahul Kushwaha, Advocate
for R-2 alongwith R-2 in Person.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **05.01.2026**

CRL.M.A. 163/2026 (for early hearing)

1. This is an application for early hearing of CRL.M.A. 10013/2025.
2. However, with the consent of learned counsel for the parties and learned Additional Public Prosecutor, the petition itself is taken up for hearing.
3. The application stands disposed of.

CRL.M.C. 2228/2025 & CRL.M.A. 10013/2025 (for stay)

1. The petitioner, named as an accused in FIR No. 231/2024 dated 18.03.2024, registered at Police Station Ranhola, Delhi, under Section 376 of the Indian Penal Code, 1860 ["IPC"], and Section 6 of Protection of Children from Sexual Offences Act, 2012 ["POCSO"].
2. By way of this petition under Section 528 of Bharatiya Nagrik



Suraksha Sanhita, 2023 (corresponding to Section 482 of the Code of Criminal Procedure, 1973), he seeks quashing of the said FIR and criminal proceedings arising therefrom.

3. The FIR was registered at the instance of respondent No. 2 herein. The allegation in the FIR was that she had been in a relationship with the petitioner for the last two and a half years. It was alleged that, when respondent No. 2 was 17 years old, she was called to the petitioner's friend's house, where the petitioner and she had physical relations, despite her having stopped him many times. It is stated that he also had made a promise of marriage to her after four to five years. It is further alleged that they had a physical relationship on many occasions thereafter under false pretext of marriage. The complainant made a complaint to the police in May 2023, but the matter was settled at that stage with the intervention of his family. She was thereafter threatened with institution of criminal proceedings against her. It is alleged that even thereafter, the parties continued with their relationship, but that the complainant's father involved the family of the respondent No. 2 in the matter, and started spreading defamatory remarks about her in the neighborhood. It is in these circumstances that the said FIR was registered.

4. The petitioner and respondent No. 2 have since gotten married to each other on 09.02.2024, and respondent No. 2 is now stated to be 8 months pregnant.

5. The petitioner and respondent No. 2 have also entered into a settlement agreement dated 04.03.2025, which states that they were in a consensual relationship. It is also stated that the FIR was registered due to a dispute about marriage, but the dispute has since been resolved and they



have married each other on 09.10.2024.

6. The petitioner and respondent No. 2 are both present in Court, and identified by their respective counsel, as well as by the Investigating Officer. Respondent No. 2 states that the allegations in the FIR were made on a misunderstanding, and in light of the action of the petitioner's father in involving her family members and neighbours in the personal dispute between the parties. Before this Court also, respondent No. 2 has signified her no objection to quashing of the FIR, and has filed an affidavit dated 14.02.2025 to this effect.

7. The question which requires consideration is whether inherent jurisdiction of this Court ought to be exercised in the present case to quash criminal proceedings, instituted *inter-alia* under Section 376 of IPC and the provisions of POCSO. Although there is no question of consent in the case of a minor entering into a sexual relationship, the Courts have considered several factors while adjudicating the question as to whether criminal proceedings can be quashed in these circumstances. Some of the judgments are discussed below:

(a) In *Tarun Vaishnav v. State of Rajasthan and Anr.* [2022 SCC OnLine Raj 2237] [hereinafter, "*Tarun Vaishnav*"], the Rajasthan High Court was dealing with an FIR lodged at the instance of the prosecutrix, a minor girl, following the birth of a child. The accused was 22 years of age at the relevant time, and it was noted that the families of both parties had agreed to a future matrimonial alliance. Upon an examination of the facts and circumstances of the case, the Court observed that the relationship between the parties was a consensual love affair, and quashed the FIR. Relevant



paragraphs are as follows:

“13. This Court is not oblivious of the legal position that in cases concerning sexual act with a minor, consent, if any, has no legal sanctity and it cannot be used as a defence. Needless to mention that this Court cannot and does not accord any approval or sanction to the sexual act of petitioner with the prosecutrix but then, it is a hard reality that their love affair has traversed beyond the legal and moral bounds, consequence whereof has begotten a child.

14. This Court cannot be a silent spectator to or turn its back on the distressed family. If the impugned FIR is not quashed, the petitioner will have to face incarceration for at least 10 years. The mistake or blunder which otherwise constitutes an offence has been committed due to immature act and uncontrolled emotions of two persons, out of whom, one is still a minor.

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.

16. It is to be noted that in almost similar circumstances, different High Courts have quashed the FIR/proceedings. The following are to mention a few:—

(i) *Vijayalakshmi v. State (Crl.M.P. No. 109/2021)*, decided on 27.01.2021 by Hon'ble High Court of Madras;

(ii) *Kundan v. State (Crl.M.C. No. 27/2022)*, decided on 21.02.2022 by Hon'ble High Court of Delhi;

(iii) *Shri Skhemborland Suting v. State of Meghalaya (Crl. Petition No. 63/2021)*, decided on 23.03.2022 by Hon'ble High Court of Meghalaya.

17. Different High Courts have given different reasonings dealing with medical, psychological, social angles of the situation; analysing the statement of objects and reasons of the POCSO Act; considering practical realities including future of the newborn child involved.”

[Emphasis supplied.]

The matter was carried to the Supreme Court by way of a special leave petition [SLP (Crl.) 1890/2023], but was dismissed *in limine* by order dated 03.03.2023. Thus, the judgment of the Rajasthan High Court attained finality.



(b) In *Sonu v. State (NCT of Delhi) & Ors.* [2024 SCC OnLine Del 3254], this Court was considering a case involving a 16-year-old prosecutrix and a 20-year-old accused. Upon an examination of the factual matrix and the nature of the relationship between the parties, the Court held as follows:

“23. As noted hereinabove,

(i) the FIR was registered on 15.08.2015 on a complaint of the respondent no. 2 that his daughter/respondent no. 3, aged 16 years, has been taken away by the petitioner, who is aged around 20 years old. There is therefore, not much gap between the age of the petitioner and the respondent no. 3;

(ii) the respondent no. 3 has consistently maintained that she had gone with the petitioner with her own free will;

(iii) the petitioner and the respondent no. 3 have got married as per Hindu rites and ceremonies at the Arya Samaj Mandir, Begum Bagh, Aligarh, Uttar Pradesh, on 21.08.2015. In the Marriage Certificate, age of the respondent no. 3 is reflected as 19 years, while the age of the petitioner is reflected as 24 years;

(iv) as per the prosecution, based on the educational documents of the respondent no. 3, her date of birth is 26.02.2001. As per the Aadhaar Card annexed with the petition, her date of birth is 01.01.1998. Therefore, as on the date of the marriage, the age of respondent no. 3 would have been around 15 ½ years (as per the school certificates), and 17 years 8 months (as per the Aadhaar Card). She was not a major on the date of the marriage;

(v) The petitioner and the respondent no. 3 have been blessed with two children, a boy and a girl, who would presently be aged around 8 years and 5½ years. The family is living happily together. The respondent no. 3 is now a major.

xxx

xxx

xxx

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 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.”

27. Reference should also be had to the judgments of this Court in Rahul Verma v. State, 2013 SCC OnLine Del 469 and Vijay Kumar v. The State Govt. of NCT of Delhi (judgment dated 22.05.2023 in Crl.M.C. 2153/2021).

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.

29. Keeping in view the above peculiar circumstances, in my opinion, this is a fit case for exercising the jurisdiction under Section 482 of the Cr. P.C. for quashing the FIR against the petitioner.”

(c) In *Sujit Kumar v. State (Govt. of NCT of Delhi) & Anr.* [Crl.M.C. 7406/2024, decided on 19.09.2024], this Court was considering a matter involving a 17-year-old prosecutrix and 19-year-old accused. This Court relied on the judgment of the Rajasthan High Court in *Tarun Vaishnav*, and judgments of this Court to quash the proceedings.

8. In the present case, the date of birth of respondent No. 2, according to her school records and her Aadhar card, is 21.08.2004. A copy of her Aadhar card is handed up in Court and is taken on record. The date of birth of the petitioner, on the other hand, in his school records and his Aadhar card, is 07.03.2002. The allegation against the petitioner thus pertains to the period when the respondent No. 2 was over 17 years of age and the petitioner was 19 years old. The relationship continued for a relatively long time, and the FIR was filed after respondent No. 2 has attained the age of majority, upon her allegation that the petitioner's father had involved her family and neighbours in the matter. The matter is thus factually quite similar to the abovementioned cases.

9. In such circumstances, I am of the view that the continuation of the criminal proceedings would be an impediment in the continued peaceful and harmonious family life of the parties. The marriage between the



parties has been soleminsed more than one year ago. Since then, the couple has been living together. The respondent No. 2 is also expecting a child. She has confirmed before me that the allegation against the petitioner in the FIR was borne out of a misunderstanding.

10. Having regard to the above facts, the possibility of conviction in the criminal proceedings, if continued, also appears to be remote.

11. In these circumstances, the petition is allowed, and the proceedings arising out of FIR 231/2024 dated 18.03.2024, registered at Police Station Ranhola, under Section 376 of IPC and Section 6 of POCSO, is quashed.

12. The petition, alongwith the pending application, stands disposed of.

PRATEEK JALAN, J

JANUARY 5, 2026

'pv/AD'/'