
(2025) 11 DEL CK 1973

In the Delhi High Court

Case No : Criminal Miscellaneous Petition No. 1469 Of 2025 & Criminal Miscellaneous Application No. 6560, 6561 Of 2025

Aman Gupta

APPELLANT

Vs

State Govt. Of Nct Of Delhi And Anr

RESPONDENT

Date of Decision : 28-11-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528

Code of Criminal Procedure Act, 1973 — Section 320, 482

Indian Penal Code, 1860 — Section 376

Protection of Children from Sexual Offences Act, 2012 — Section 6

Citation : (2025) 11 DEL CK 1973

Hon'ble Judges : Amit Mahajan, J

Bench : Single Bench

Advocate : Ashutosh Bhardwaj, Richa Dhawan

Final Decision : Dismissed

Judgement

Amit Mahajan, J

1. The present petition is filed seeking quashing of FIR No. 176/2022 dated 28.02.2022, registered at Police Station Mehrauli, for the offences punishable under Section 376 of the Indian Penal Code, 1860 ('IPC') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act'), including all consequential proceedings emanating therefrom, on the ground that the parties had since married.

2. Briefly stated, the FIR was registered after the victim/ Respondent No.2, who was 17 years of age, had given birth to a baby girl pursuant to engaging in physical relations with the petitioner (neighbour of the victim at that time). Allegedly, the petitioner had proposed to the victim for marriage, whereafter, they had entered into a relationship.

3. It is asserted that the parties have since married and are happily residing

together, whereby no purpose will be served by continuation of proceedings. It is stated that the parties had developed an amorous relation when they were neighbours and although Respondent No.2 was 16-17 years old when the parties engaged in physical relations, the petitioner was also only 19 years old.

4. The Hon'ble Apex Court has laid down parameters and guidelines for High Court while accepting settlement and quashing the proceedings. In the case of *Narinder Singh & Ors. v. State of Punjab & Anr.* : (2014) 6 SCC 466, the Hon'ble Apex Court had observed as under :-

"29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the

possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

(emphasis supplied)

5. In the considered view of this Court, offences of the nature alleged particularly those involving sexual offences involving children cannot be nullified merely on the basis of settlements between the parties. Such offences, in the true sense, cannot be regarded as offences in personam and the same constitutes a crime against the society at large. Offences of such nature cannot be extinguished only at the convenience of the parties or because the victim, at a subsequent stage, decides to marry the culprit. Any such compromise or marriage does not ipso facto efface the gravity of the offence or wipe out the seriousness of the allegations.

6. Prima facie, the fact that the victim gave birth when she was around 17 years of age is sufficient to make out the alleged offence under POCSO Act. Recently, in the case of Prasanjeet Mandal alias Denchu v. State NCT of Delhi & Anr. : CRL.M.C. 8123/2025, this Court observed that High Court while exercising inherent jurisdiction or even writ jurisdiction cannot legalise the serious crime of sexual intercourse with a minor on account of “consent”. In that case, in similar circumstances, this Court had dismissed the petition seeking quashing of FIR. The relevant portion of the order is as under:

“8. It is well-settled that the consent of a minor holds no relevance as the law itself deems minors as being incapable of consenting to sexual intercourse. POCSO Act is helmed on the object of protecting children from being victimised. When the law itself does not provide for any exception based on consent, endorsement of underage pregnancies or marriages will frustrate the very purpose of the Act. This Court thus cannot lend legitimacy to such relations by quashing the FIR.

9. Recently, a similar view was expressed by a Coordinate Bench of this Court in the case of Prince Kumar Sharma and others v. The State NCT of Delhi and another : 2025: DHC:10080 where the minor victim was married to the accused and a child had been born out of the relationship as well. Declining the prayer for quashing of FIR, the Court held that it could not carve out an exception based on consent, which runs in teeth with the statute. The relevant portion of the judgment is as under:

“13...The pregnancy of the victim, as a result of sexual intercourse with Petitioner No. 1, leaves no real dispute about the occurrence of the sexual act. Once it is accepted that she was below 18 years of age at the relevant time, the case falls squarely within the ambit of the POCSO Act. Under the POCSO Act, read with the then prevailing provisions of the IPC, any sexual act with a person under 18 is criminalised per se, without importing “consent” as a constituent element once the victim is a child. Since the Parliament has fixed 18 as the age below which

the law refuses to recognise sexual consent, this Court, exercising jurisdiction under Article 226 of the Constitution, cannot, in the guise of doing equity, write in a judge-made exception for “nearmajority, consensual relationships”. To do so would be to cross the line from interpretation into legislation. Subsequent developments in the relationship, however compelling in equity, the couple living together, the birth of a child, the victim’s present stance, cannot retrospectively legalise conduct which the law, at the time it occurred, treated as an offence. At this pre-trial stage, where the essential ingredients of the offence are disclosed and there is no patent abuse of process, there is no room for quashing the proceedings.

14. There is, moreover, a wider institutional concern. The present case does not involve only two young persons who chose to live together; the parents of both sides stand arraigned under the Prohibition of Child Marriage Act, 2006 on the allegation that they facilitated or condoned a marriage involving a minor girl. An order quashing the prosecution in such circumstances would almost inevitably be perceived as judicial endorsement of the notion that underage marriages can be insulated from legal consequences, so long as the parties subsequently present themselves as a settled family. Courts cannot ignore the possibility that what appears, on the surface, as voluntary acquiescence by a 16-year-old may, in fact, be the product of familial pressure or community expectations, especially once pregnancy has occurred. To snuff out the prosecution at the threshold would risk sending a message that child marriages and sexual relationships with minors can be retrospectively sanitised by arranging a ceremony and continuing cohabitation. That would sit squarely at odds with the legislative purpose of both POCSO and the child marriage law, which is to deter early marriage and sexual exploitation of children.

15. The Court is not indifferent to the victim’s wish to protect her family. In fact, this Court is moved by the circumstances, but it is bound by the statute. This is, therefore, one of those hard cases where the pull of equity is strong, but the command of the statute is stronger. This Court, for securing the ends of justice, cannot carve out an exception to the statute merely because the victim describes the relationship as consensual.”

(emphasis supplied)”

7. While this Court is sympathetic to the plight of the parties, in the opinion of this Court, such acts cannot be legitimised or condoned by exercise of inherent jurisdiction of the High Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

8. The present petition is, therefore, dismissed. Pending applications also stand disposed of.