



\$~25

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

CNR No. DLHC010303902026

+ **CRL.M.C. 4917/2026**

████████████████████

.....Petitioner

Through: Mr. Aman Goyal, Mr. Yogesh Kalra
and Mr. Gaurav Kashyap, Advocates.

versus

THE STATE & ANR.

.....Respondents

Through: Mr. Tarang Srivastav, APP for State.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

% **ORDER**
01.10.2026

1. The young woman whose protection set the criminal law in motion now asks this Court to bring the proceedings to an end. She is married to the Petitioner, they have a child, and she says they are living together happily. Her mother, on whose complaint the FIR was registered, supports that request. The Petitioner accordingly seeks, under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [“BNSS”], quashing of FIR No. 106/2024 registered at P.S. ██████████, Delhi and all proceedings emanating therefrom. The difficulty is that the prosecution concerns sexual intercourse during the victim’s childhood and includes an allegation of aggravated penetrative sexual assault under the Protection of Children from Sexual Offences Act, 2012 [“POCSO”].



2. The proceedings began on 6th April, 2024, when the victim's mother reported that her daughter had left home that morning and could not be found. Suspecting that she had been enticed away, she lodged the complaint on which the FIR was registered under Section 363 of the Indian Penal Code, 1860 ["IPC"]. The victim, born on 14th September 2007, was then a little short of 16 years and 7 months. The Petitioner, born on 31st January 2004, was 20.

3. The victim was traced in October 2024. Her medical examination at Hindu Rao Hospital on 10th October, 2024 recorded a pregnancy of 28 weeks and 3 days. In her statement under Section 164 of the Code of Criminal Procedure, 1973 ["CrPC"], recorded the next day, she said that she had left voluntarily, travelled with the Petitioner to Hyderabad, Darbhanga and Nepal, and had not been coerced. She also referred to a marriage ceremony at Darbhanga, although she then expressed a wish to live with her mother.

4. She later left her mother's home again. When the Petitioner was arrested at Darbhanga on 20th August, 2025, she was living with him and their son, born in December 2024. She attained majority on 14th September, 2025. Two days later, during the hearing of the Petitioner's bail application, she stated that she wished to remain with him and did not oppose his release. The Special Court granted bail, noting her account and the Petitioner's clean antecedents. The parties solemnised their marriage on 29th September, 2025. A compromise deed executed in May 2026 records their wish to end the proceedings. The chargesheet has been filed, and the matter is stated to await consideration of charge.

5. The victim is present in Court. She confirms her date of birth and



states that she accompanied the Petitioner willingly, has no grievance against him, and is living with him and their child as a family. Her mother states that she approached the police because her daughter was missing; she now accepts the marriage and does not wish to pursue the case.

6. Counsel for the Petitioner submits that the relationship was voluntary throughout. The victim consistently denied coercion and has stated that she did not disclose her correct age to the Petitioner. He accepts paternity for the purposes of this petition, and the parties are raising their child together. Continuing the prosecution, it is argued, would expose the family to uncertainty and hardship without serving any useful purpose. Reliance is placed on *State of M.P. v. Laxmi Narayan*¹, *Ramgopal & Anr. v. State of M.P.*² and, in particular, *K. Kirubakaran v. State of Tamil Nadu*³.

7. Mr. Tarang Srivastav, APP for the State, opposes the petition. The State relies on the victim's undisputed minority, the medical evidence of pregnancy and the material collected during investigation. It submits that the circumstances relied upon do not justify terminating this prosecution.

8. For present purposes, the victim's account of a voluntary relationship may be accepted. Her denial of coercion dates to the investigation; it is not an explanation offered for the first time after the compromise. There is also no material before this Court to suggest that the marriage is a device adopted merely to secure quashing. Her concern is readily understood: the person facing prosecution is now her husband and the father of her child, and the consequences of the proceedings will be felt by all three.

9. Her present choice as an adult is entitled to respect. The question is

¹ (2019) 5 SCC 688.

² 2021 INSC 568.



whether proceedings concerning sexual intercourse with her while she was a child should be brought to an end because of what the relationship later became. Section 2(1)(d) of POCSO defines a child as a person below 18 years of age. Under Section 3, absence of consent is not an ingredient of penetrative sexual assault upon a child. Clause sixthly of Section 375 IPC likewise covers sexual intercourse with a girl below eighteen, with or without her consent. Willingness may explain the relationship; it does not take the alleged act outside the statute.

10. The law does not assume that all children possess the same understanding or maturity. The Parliament nevertheless chose a uniform age threshold, rather than an inquiry in each case into whether a particular child understood enough to dispense with its protection. A court cannot substitute its assessment of a child's maturity for that legislative choice.

11. Nor does that protection depend upon proof of grooming, deception or overt force. No such finding is made against the Petitioner here. The narrower point is that the absence of those circumstances does not, by itself, answer an allegation of sexual intercourse during minority. An enduring relationship cannot retrospectively supply legal consent.

12. Describing a child as "nearly eighteen" does not resolve the difficulty. Here, she was about 17 months short of 18 when she first left home, and pregnancy was medically recorded during her undisputed minority. This was not a departure from the statutory threshold measured in days or weeks. That she returned to the Petitioner after living with her mother may demonstrate her attachment; it does not alter her age when the alleged acts occurred.

13. The concern over prosecutions arising from genuine adolescent

³ 2025 SCC OnLine SC 2307.



relationships is real. In *State of Uttar Pradesh v. Anurudh*⁴, the Supreme Court asked the Union Government to consider measures, including a “Romeo-Juliet” clause exempting genuine adolescent relationships from the stronghold of the law. That observation recognised a problem requiring attention; it did not introduce an exception into the existing statute. Defining any such exception, its age limits and its safeguards would require legislative consideration.

14. The marriage must also be considered in its proper sequence. The certificate records solemnisation on 29th September, 2025, when the victim had attained 18 and the Petitioner 21. Both had then reached the prescribed marriageable age. Her October 2024 statement, however, refers to an earlier ceremony at Darbhanga, when neither had reached that age. Their subsequent marriage as adults cannot determine the legality of sexual intercourse during her minority.

15. Under Section 3 of the Prohibition of Child Marriage Act, 2006 [“PCMA”], a child marriage is ordinarily voidable at the option of the contracting party who was a child, subject to the circumstances in which the Act declares such a marriage void. The Act also provides for maintenance, residence, custody and legitimacy. These provisions address the consequences of child marriage and protect those affected by it; they do not authorise sexual intercourse with a child. It is unnecessary in these proceedings to adjudicate the validity of the earlier ceremony. Even a subsisting marriage would not displace POCSO.

16. *Independent Thought v. UOI & Anr.*⁵ makes this clear. The Supreme

⁴ 2026 SCC OnLine SC 40.

⁵ (2017) 10 SCC 800.



Court read down Exception 2 to Section 375 IPC so that marriage would not exclude sexual intercourse with a wife below 18 from the offence of rape. ***Society for Enlightenment and Voluntary Action & Anr. v. Union of India & Ors.***⁶ reiterates that sexual intercourse with a minor wife attracts POCSO. Marriage does not remove the protection which the law affords a child.

17. The September 2025 marriage nevertheless has considerable relevance to the prayer for quashing. It gives effect to the victim's present choice and brings the consequences of prosecution for this family into focus. Its significance lies in the plea for exceptional relief, rather than in any retrospective alteration of the alleged offence.

18. Even taking the victim's account as she gives it, the factual foundation of the prosecution remains. She describes the relationship as voluntary but does not deny that it was sexual. Her pregnancy was medically recorded while she was a minor, and the Petitioner accepts paternity for the purposes of this petition. The material presently available therefore *prima facie* supports the allegation that sexual intercourse with the Petitioner resulted in pregnancy during her minority, bringing Section 5(j)(ii) r/w Section 6 POCSO into consideration. The forensic report was awaited when the chargesheet was filed; the Court assumes nothing about its result. Her statement that she misstated her age concerns what the Petitioner was told, not her actual age. The circumstances of that representation, and any defence available in law, remain for the Special Court to examine.

19. The Court must still consider whether continuation of the prosecution would amount to an abuse of process or whether quashing is necessary to secure the ends of justice. Section 528 BNSS preserves that power, and

⁶ 2024 INSC 790.



Article 226 permits intervention in an appropriate case. The invocation of POCSO does not, by itself, exclude either jurisdiction. The inquiries are distinct: willingness cannot constitute legal consent during minority, but the Court must nonetheless examine whether the circumstances as a whole warrant termination of the proceedings.

20. *Laxmi Narayan and Ramgopal* require the Court to consider the nature and seriousness of the offence and its impact on society. They recognise that offences arising from disputes having an overwhelmingly and predominantly civil character, including matrimonial or family disputes, may in appropriate cases be quashed, but that offences which are not private in nature and have a serious impact on society stand on a different footing. The present prosecution concerns alleged sexual conduct when the victim was a child. The subsequent marriage between the parties does not alter the character of those allegations or, by itself, bring the prosecution within the category of matrimonial or family disputes contemplated in those decisions.

21. In *In Re: Right to Privacy of Adolescents*⁷, the Supreme Court considered a case involving a 14-year-old victim, an adult accused and a child born from the relationship. The High Court had sought to set aside the conviction, being influenced, *inter alia*, by the consensual nature of the relationship and the fact that the accused was taking care of the victim and the child. The Supreme Court held that whether an offence under the POCSO arises from a romantic relationship is irrelevant and that the High Court could not, in exercise of its powers under Article 226 and Section 482 CrPC, quash the established offence on such considerations. It emphasised that the Courts must follow and implement the law and cannot commit



violence against the law. The present case involves different ages and has not reached trial. The decision is therefore relevant to the narrower proposition that the nature of the relationship cannot alter the statutory ingredients of the offence.

22. *Ayyub Malik & Anr. v. State of Uttarakhand & Anr.*⁸, requires separate consideration. The Supreme Court quashed the proceedings and held that the High Court would have done justice to the parties by exercising its jurisdiction under Section 482 CrPC to bring the proceedings to an end. The woman had, at the initial stage itself, stated that she was an adult and had married the appellant of her own will. The FIR, however, described her as seventeen years old, while the appellants relied on a date of birth showing her to be a major. The Supreme Court did not resolve that controversy, holding that these questions had paled into insignificance in view of the subsequent circumstances, including the parties' voluntary marriage, their almost six years of matrimonial relationship and the birth of a child. The decision therefore cannot be explained merely as a finding that minority was unproved. It rests on the circumstances taken together. Here, minority is undisputed and pregnancy was medically recorded during childhood. *Ayyub Malik* therefore requires the Court to consider the subsequent family circumstances but does not make them conclusive irrespective of the remaining record.

23. *Mahesh Mukund Patel v. State of U.P. & Ors.*⁹ is distinguishable on a clearer ground. The Supreme Court, on consideration of the documents on record, found that the woman was already a major when the alleged offence

⁷ 2024 INSC 614.

⁸ 2026 SCC OnLine SC 637.



was committed. Its consideration of the subsequent marriage and the birth of two children proceeded on that foundation. The present petition offers no corresponding documentary basis for excluding minority.

24. In *Harmeet Singh v. State of GNCT Delhi & Anr.*¹⁰, a Coordinate Bench of this Court quashed a POCSO prosecution after considering the victim's consistent and unequivocal stand, her voluntary marriage to the accused, their child and the consequences of prosecution for their young family. The Court identified several considerations relevant to the exercise of its jurisdiction, including the respective ages of the parties, the duration of their matrimonial relationship, the birth and future of their child, and the absence of violence or brutality.

25. *Harmeet Singh* calls for a careful and sensitive consideration of the facts and circumstances as a whole; it does not prescribe quashing whenever such features are present. The victim there was about 17 years and 2 months old; the FIR was registered pursuant to information furnished by the hospital where she had gone to deliver her child, and the State expressly stated that it had no objection to quashing. Here, the victim was younger, her mother promptly reported her disappearance, and the investigation has resulted in a chargesheet which the State seeks to prosecute. Neither the difference in age nor the State's opposition is, by itself, decisive. Pregnancy and parenthood are common to both cases and do not, therefore, furnish a distinction by themselves. Having considered the favourable circumstances, this Court remains unpersuaded that they suffice to bring the present prosecution to an end. Her account, accepted for the purposes of the present petition, discloses

⁹ 2025 SCC OnLine SC 614.

¹⁰ 2026 SCC OnLine Del 1707.



a *prima facie* allegation of an aggravated offence committed during undisputed minority. The subsequent family life makes the continuation of the prosecution painful; on the present record, however, it does not establish that such continuation would amount to an abuse of process or that termination of the proceedings is necessary to secure the ends of justice.

26. This assessment is consistent with ***Prince Kumar Sharma & Ors. v. State NCT of Delhi & Anr.***¹¹, where quashing was declined despite the victim's subsequent marriage, pregnancy and the birth of a child, the purported marriage having taken place when she was about 16 years and 5 months old. The Court held that such subsequent developments, however compelling in equity, could not retrospectively legalise conduct which was an offence when committed. In ***Mohd. Dilsad @ Adil v. State & Ors.***¹², the victim had consistently described the relationship as voluntary; she had married the petitioner and two children had been born from the union. The Court nevertheless declined to terminate the prosecution, holding that these subsequent developments could not erase the statutory ingredients of the offence; the fact that the trial had substantially progressed was an additional consideration. These decisions turn on their respective records, but illustrate that marriage and parenthood, though relevant to the exercise of extraordinary jurisdiction, cannot alone determine the result.

27. The difficulty in granting relief here goes beyond the sincerity of this marriage. To end the prosecution on the grounds advanced would allow subsequent marriage, parenthood and family acceptance to outweigh the protection afforded to her when she was a child. That protection cannot

¹¹ CRL.M.C. 7145/2025, decided on 14th November, 2025 (Delhi High Court).

¹² W.P.(CRL.) 1622/2025, decided on 3rd December, 2025 (Delhi High Court).



depend simply on whether a relationship survives or eventually receives approval. The Court is conscious of the painful consequence of refusing relief: the woman for whose protection the law is invoked now sees the proceedings as a threat to the family she wishes to preserve. Her concern cannot be treated as legally irrelevant. Yet child protection remains central to this Court's assessment, and the hardship shown here does not persuade it to terminate an otherwise sustainable prosecution. It is in this setting that *K. Kirubakaran* assumes significance.

28. In *K. Kirubakaran*, the Supreme Court considered the consequences of the appellant's continued incarceration for his wife and child after his conviction had been upheld. It took into account the marriage, the wife's dependence on the appellant and her desire to preserve the family. The Court nevertheless recognised that, under ordinary law, the proceedings arising from a heinous offence could not be quashed on the basis of a compromise. In the peculiar circumstances, the Supreme Court invoked its extraordinary power under Article 142 to quash the proceedings, conviction and sentence, and expressly directed that the order should not be treated as a precedent.

29. The source and terms of that relief matter. In *Indian Bank v. ABS Marine Products (P) Ltd.*¹³, the Supreme Court distinguished between the law declared by it and relief moulded under Article 142 to do complete justice on the special facts of a case. It cautioned that courts should ascertain and follow the *ratio decidendi*, and not the relief granted on such special facts in exercise of Article 142. In *K. Kirubakaran*, the express invocation of Article 142 and the express restriction on precedential use therefore leave no basis to derive a corresponding rule of relief in this Court merely from



similarity in the appeal to compassion. This does not displace the independent inquiry under Section 528 BNSS undertaken above; it explains why *K. Kirubakaran* cannot supply what that inquiry has not established.

30. The later decision in *In Re: Right to Privacy of Adolescents*¹⁴, illustrates the distinction further. After considering the Committee's reports and interacting with the victim, the Supreme Court found that sending the accused to jail would cause the victim further suffering. Although the accused stood convicted, the Court exercised its extraordinary jurisdiction under Article 142 and directed that he would not undergo sentence. The Court expressly held that the case was not to be treated as a precedent, describing the case as an illustration of the failure of the society and the legal system. The conviction and the exceptional relief from imprisonment were, thus, kept distinct.

31. These decisions acknowledge that the consequences of criminal law may fall heavily upon the very person it seeks to protect. That concern is present here. The victim's wish to live with the Petitioner, and their child's interest in the care of both parents, are substantial considerations. They explain the force of the request before the Court. They do not, in this Court's assessment of the present record and the jurisdiction it exercises, furnish sufficient grounds to extinguish the prosecution.

Conclusion

32. The case for quashing is, therefore, not made out. The complaint followed the disappearance of a minor; the investigation disclosed pregnancy during her minority and material connecting the Petitioner to the

¹³ (2006) 5 SCC 72.

¹⁴ 2025 INSC 778.



alleged acts. Her account of a voluntary relationship does not remove that foundation, although it may bear upon the proof of particular charges. The prosecution has not been shown to be manifestly false, malicious or an abuse of process. Nor do the subsequent marriage, compromise and family circumstances, considered together, justify its termination to secure the ends of justice.

33. This conclusion does not question the victim's present choice or require her to describe her own experience in terms she rejects. It concerns the legal consequences of alleged acts done to her when she was a child. Those consequences must now be examined by the Special Court on the evidence and in accordance with law. The petition is, accordingly, dismissed.

34. All observations in this order are confined to the prayer for quashing.

35. The Special Court shall consider the charges, evidence and every defence available in law independently, uninfluenced by any *prima facie* assessment made here. Dismissal of this petition does not disturb the bail already granted. The Petitioner remains at liberty to pursue his remedies before the Supreme Court and to place the exceptional circumstances of the family before it, including in support of a prayer for relief under Article 142.

36. The petition is accordingly dismissed.

SANJEEV NARULA, J

OCTOBER 1, 2026/hc