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

% **Date of Decision: 30th September, 2026**

CNR No. DLHC010222492026

+ **CRL.M.C. 3904/2026**

SHER BAHADUR @ SHERAPetitioner

Through: Mr. Neeraj Kr. Mishra, Advocate
with petitioner in person.

versus

STATE GOVT OF NCT OF DELHI AND ANRRespondents

Through: Mr. Hitesh Vali, APP for the State.
(M): 9971695125
Email: valihitesh@gmail.com
SI Pooja Yadav with SI Prity, PS
Vasant Kunj, South.
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Respondent no. 2 in person.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J. (Oral):

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), corresponding to Section 482 of the Code of Criminal Procedure, 1973 ("CrPC"), for quashing of the First Information Report ("FIR") being *FIR No. 152/2019* dated 13th March 2019, registered at Police Station ("PS") Vasant Kunj South, South West District,



Delhi, under Sections 363/366A/376 of the Indian Penal Code, 1860 (“IPC”), Section 6 of the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act”), and Sections 9/11 of the Prohibition of Child Marriage Act, 2006 (“Prohibition of Child Marriage Act”), as well as the consequential criminal proceedings arising therefrom, on the ground that the FIR was registered due to a misconception and misunderstanding and the parties have arrived at an amicable settlement.

2. Issue notice. Notice is accepted by learned Additional Public Prosecutor (“APP”) appearing for the State, i.e., respondent no. 1, as well as by respondent no. 2, who is present before this Court.

3. A Chargesheet dated 10th May, 2019, has been filed by the concerned Investigating Officer (“IO”) in respect of the aforesaid FIR before the Additional Sessions Judge, Patiala House Court, New Delhi, whereby, the petitioner has been charged under all the Sections, as stated in the FIR, and additionally with Section 506 of the IPC.

4. As per the documents on record, the following facts have been culled out:

4.1. It is alleged that on 07th March, 2019, respondent no. 2 was informed by her uncle and father that her marriage had been fixed for the next day, i.e., 08th March, 2019, in Raebareli, Uttar Pradesh.

4.2. On 08th March, 2019, respondent no. 2 was married to the petitioner, who was unknown to her at the time.

4.3. The petitioner subsequently took respondent no. 2 to his brother’s house in Ghaziabad, Uttar Pradesh. At that time, respondent no. 2 was unable to contact the police as she did not have access to a phone.

4.4. It is further alleged that the petitioner forced respondent no. 2 to have



physical relations with him on three occasions in Ghaziabad, Uttar Pradesh.

4.5. On 11th March, 2019, the petitioner took respondent no. 2 to a farmhouse and forced her to have physical relations with him again.

4.6. On 12th March, 2019, respondent no. 2 contacted the police, following which, *FIR No. 152/2019* was registered at her instance.

5. Learned counsel appearing for the petitioner submits that the petitioner and respondent no. 2 have already married and are living happily together.

6. *Per contra*, learned APP appearing for the State draws the attention of this Court to the Chargesheet and *FIR No. 152/2019*, wherein, it is stated that the petitioner, at the time of the marriage, i.e., 08th March, 2019, was 38 years of age, while respondent no. 2 was approximately 17 years of age.

7. It is well settled that this Court, in exercise of its inherent powers under Section 528 of the BNSS, corresponding to Section 482 of the CrPC, may quash criminal proceedings even in cases involving non-compoundable offences where the parties have arrived at a compromise. However, the Supreme Court has cautioned against the exercise of such power where the allegations concern serious and heinous offences. In this regard, in the case of *Gian Singh Versus State of Punjab and Another*, (2012) 10 SCC 303, the Supreme Court held as under:

“xxx xxx xxx

58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts



which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. **In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all.** However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

xxx xxx xxx”

(Emphasis Supplied)

8. Further, in ***Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Karmur and Others Versus State of Gujarat and Another***, (2017) 9 SCC 641, the Supreme Court summarised the following principles for quashing of criminal proceedings:

“xxx xxx xxx

16. The broad principles which emerge from the precedents on the



subject, may be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. **While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.**

16.3. **In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.**

16.4. **While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.**

16.5. **The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.**

16.6. **In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.**

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.



16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and xxx xxx xxx”

(Emphasis Supplied)

9. As regards offences under the POCSO Act, the Supreme Court in the case of ***Ramji Lal Bairwa and Another Versus State of Rajasthan and Others, (2025) 5 SCC 117***, has emphasised that such offences cannot ordinarily be treated as purely private disputes amenable to quashing merely on the basis of a settlement between the accused and the victim or her family. The relevant excerpts from the judgment are reproduced below:

“xxx xxx xxx

17. The Objects and Reasons for the enactment of the Pocso Act, as extracted above, would undoubtedly show that quashment of proceeding initiated under the Pocso Act abruptly by invoking the power under Section 482 CrPC without permitting it to mature into a trial, except on extremely compelling reasons ex facie mala fide initiated or initiated solely to settle the score, etc. would go against the very intention of the legislature behind the enactment. As noted earlier, it is the inadequacy of the existing laws to address certain issues relating to sexual offences against the children that made the legislature to come up with the aforesaid legislation with a view to protect and respect the privacy and confidentiality of children and to ensure their physical, emotional, intellectual and social development.

18. The Pocso Act also addressed the lack of provisions defining various offences against the children and also adequate penal provisions therefor. A careful scanning of the various provisions under the Pocso Act would reveal that with a view to achieve the aforesaid objects and purposes various offences against the



*children are specifically defined and provisions for adequate penalisation are also inserted in the Act. Obviously, rubbing the breast of a child would constitute an offence of “sexual assault” under Section 7 of the Pocso Act, punishable with imprisonment of either description for a term which shall not be less than three years and may extend to five years and also fine. **They would reveal that the commission of such offences against the children should be viewed as heinous and serious. Needless to say, that commission of such offences cannot be taken lightly as offences of private nature and in fact, such offences are bound to be taken as offences against the society.***

xxx xxx xxx

45. In the decision relied on by the High Court to quash the proceedings viz. Gian Singh case [Gian Singh v. State of Punjab, (2012) 10 SCC 303 : (2012) 4 SCC (Civ) 1188 : (2013) 1 SCC (Cri) 160 : (2012) 2 SCC (L&S) 988] and the decision in Laxmi Narayan case [State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688 : (2019) 2 SCC (Cri) 706] in unambiguous terms this Court held that the power under Section 482 CrPC could not be used to quash proceedings based on compromise if it is in respect of heinous offence which are not private in nature and have a serious impact on the society. When an incident of the aforesaid nature and gravity allegedly occurred in a higher secondary school, that too from a teacher, it cannot be simply described as an offence which is purely private in nature and has no serious impact on the society.

xxx xxx xxx”

(Emphasis Supplied)

10. This Court has perused the FIR in question and the Chargesheet. The charges against the petitioner are grave in nature. In the contemporary society, where girls are encouraged to study and build a good life for themselves, and where child marriage is prohibited by law, forcing a minor child to marry at the age of 17 years is a serious offence.

11. This Court also takes note of the fact that the age gap between the petitioner and respondent no. 2 is approximately 20 years.



12. Pertinently, respondent no. 2 approached the police and lodged a complaint against the petitioner at the first available opportunity.

13. These circumstances must be considered in light of the POSCO Act as well as the Prohibition of Child Marriage Act, which have been enacted in order to protect minor children, especially girls, from the menace of sexual assault. The protective objectives of the statutes cannot be defeated merely because the parties have subsequently arrived at a settlement or are living together as husband and wife.

14. Present case leading to a forced child marriage with a man approximately 20 years elder to her, cannot be considered to be a private act, as the same has large societal impact. The child marriage is a social evil which has been eradicated by legislation. Allowing parties to settle in such circumstances would be against the interest of the society. Settlement in such cases cannot wipe out criminality. Therefore, there is an overriding element of public interest in the present case to continue trial, irrespective of any compromise between the parties.

15. The inherent power of this Court under Section 528 of the BNSS is to secure ends of justice and not to defeat justice. Quashing of FIR in the present case would amount to legitimising child marriage and exploitation of minor, which cannot be allowed.

16. Accordingly, such a grave offence, where a minor child is forced to marry a person who is almost 20 years older than her, and forced to establish physical relations, cannot be condoned by this Court in any manner, merely on the ground of an alleged settlement between them.

17. Hence, the present petition for quashing based on compromise, is liable to be dismissed.



18. The trial in the matter shall continue.
19. The present petition is accordingly dismissed.

MINI PUSHKARNA, J

SEPTEMBER 30, 2026

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