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

+ **CRL.M.C. 5383/2025 & CRL.M.A. 23182/2025**

AKHILESH AND ORS

.....Petitioners

Through: Appearance not given.
versus

THE STATE GOVT OF NCT DELHI AND ANR ...Respondents

Through: Mr. Mukesh Kumar, APP for the
State along with W/SI Akansha, PS.
Bhalaswa Dairy.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

08.09.2025

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1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 of the Code of Criminal Procedure, 1973) seeks quashing of FIR No. 002/2024, registered under Section 363 of the Indian Penal Code, 1860,¹ at P.S. Bhalswa Dairy, and all consequential proceedings emanating therefrom.
2. The petition is premised on a settlement between the Petitioners and Respondent No. 2/the Prosecutrix. The State opposes quashing having regard to the nature of the allegations and has filed a status report.
3. The FIR records that the Prosecutrix's father reported his daughter "C", aged 17 years, missing from the parental home in the early hours of 5th December, 2023, with a suspicion of kidnapping by two individuals, Ankit and Paras, and further requested a legal action against them.
4. The Prosecutrix was subsequently recovered from the custody of

¹ "IPC"



Ankit (Petitioner No. 2) at Ganganagar, Rajasthan on 17th January, 2024. Upon her return to Delhi, medical examination was conducted. The MLC notes an alleged history of sexual assault and a positive pregnancy test.

5. During investigation, the Prosecutrix's statement was recorded under Section 161 Cr.P.C., wherein she stated that she had been in a relationship with Petitioner No. 2 for the past five years. In 2022, when her grandfather discovered this relationship, he insisted that she accompanied the family to Chandanpur to solemnise a marriage. At that stage, she left the house with Petitioner No. 2. Both were later apprehended by the police and Petitioner No. 2 was sent to jail. Thereafter, her grandfather took her back to the village and, on 23rd November, 2022, she was married to Akhilesh (Petitioner No. 1) against her will. Following this marriage, she entered into physical relations with Petitioner No. 1 and became pregnant. In November 2023, she compelled her family to allow her to return to Delhi. On 6th December, 2023, she again left her house to join Petitioner No. 2, and both travelled to Ganganagar, Rajasthan, where she was later recovered from Petitioner No. 2's residence on 17th January, 2024. After returning to Delhi, she clarified that she did not engage in any physical relations with Petitioner No. 2. On the basis of her statement, the investigating agency invoked additional offences under Sections 366 and 376 IPC, Sections 6 and 21 of the Protection of Children from Sexual Offences Act 2012,² and Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006,³ and proceeded with investigation.

6. In her statement recorded under Section 164 of the Cr.P.C., the

² "POCSO Act"

³ "PCM Act"



Prosecutrix stated that she had been residing at her matrimonial home since her engagement to Petitioner No. 1. However, on 5th December, 2023, she voluntarily went to Ganganagar, Rajasthan, along with Petitioner No. 2, where they began residing in a rented accommodation. Subsequently, the police brought them back on 18th January, 2024.

7. The Prosecutrix has appeared in person, and expressly stated that she does not oppose the quashing of proceedings against the Petitioners. In fact, she actively supported the prayer made in the petition and affirmed that she and Petitioner No. 1 are married. In order to satisfy itself of the voluntariness of her stance, this Court interacted with the Prosecutrix at length. During the interaction, she reiterated her support for the prayer of quashing, and confirmed that she is happily cohabiting with Petitioner No. 1 as his wife. She further disclosed that she is presently pregnant with their second child. On these assertions, it appears that the Prosecutrix has reconciled with her circumstances and desires to continue her relationship with Petitioner No. 1.

8. While the Court has duly noted her statement and the realities of her present situation, it must also bear in mind that such subsequent developments do not *ipso facto* eclipse the nature of the offences alleged, nor dilute the statutory protections extended to children under the POCSO Act and the PCM Act.

9. In prosecutions under the POCSO Act, consent is legally irrelevant where the “child” is below eighteen years [Section 2(1)(d), read with Sections 3, 5 and 6, POCSO]. When penetrative sexual assault results in pregnancy, the law deems it “aggravated penetrative sexual assault” [Section 5(j)(ii)], punishable under Section 6 POCSO. Marriage or cohabitation at a



later stage does not erase the offence. The Court's approach has been forthright: compromise or marriage cannot be a passport out of a sexual offence. The Supreme Court, in *Shimbhu v. State of Haryana*,⁴ categorically observed that a compromise entered into between the parties cannot be treated as a mitigating factor warranting a lesser punishment. Rape is a non-compoundable offence, being an offence against society at large, and is not a matter that can be left to the discretion of the parties to compromise or settle.

10. Further, the PCM Act criminalises child marriages. Section 9 punishes a male adult marrying a child; Section 10 punishes those who perform, conduct, direct, or abet a child marriage. Whatever the civil status of the marriage (void or voidable in terms of the statute), the conduct remains penal where the bride is a child. To quash a case of child marriage and sexual offences on the plea of settlement would, in effect, grant judicial imprimatur to unlawful conduct that the Parliament has explicitly sought to deter.

11. It is well-settled that the inherent power of the Court under Section 482 Cr.P.C. to quash criminal proceedings is circumscribed by narrow limits. It is to be exercised sparingly, in cases where the allegations, even if taken at face value, do not disclose any offence, are absurd or inherently improbable, or where the prosecution manifestly amounts to an abuse of process.⁵ The Supreme Court in *State of Haryana v. Bhajan Lal*,⁶ has laid down the governing parameters for quashing of FIR, which have been

⁴ (2014) 13 SCC 318.

⁵ *Gian Singh v. State of Punjab*, (2012) 10 SCC 303; *Narinder Singh & Ors. v. State of Punjab & Anr*, (2014) 6 SCC 466.

⁶ 1992 Supp (1) SCC 335.



consistently followed thereafter. The Court has repeatedly cautioned that heinous and serious offences, especially those with an element of sexual assault on minors, are not ordinarily quashed on the ground of settlement, as such crimes are offences against society at large.⁷

12. The record shows the Prosecutrix was a minor at the time of the sexual relationship With Petitioner No. 1 and was found pregnant at recovery. On these facts, the rigours of the POCSO Act squarely apply; the allegation attracts the offence of aggravated penetrative sexual assault [Section 5(j)(ii) read with Section 6 POCSO Act]. Sections 366 and 376 IPC and Sections 9 and 10 PCMA are also in play. The petition invites the Court to treat later marriage/cohabitation and present pregnancy as a foundation to bury a prosecution for grave offences. That approach would trespass upon settled principle: crimes of this order are not private wrongs amenable to settlement-based obliteration. Such circumstances call for a full-fledged trial, and not an exercise in fact-weighting or credibility assessment under Section 482 Cr.P.C. (now Section 528 BNSS).

13. In the result, the settlement, the later marriage/cohabitation, and the present pregnancy cannot furnish a legal basis to terminate the prosecution for offences of this gravity. The extraordinary jurisdiction under Section 528 BNSS/Section 482 CrPC is not attracted.

14. The petition is dismissed; all pending applications stand disposed of. For clarity, nothing in this order touches upon the merits of the evidence. The Trial Court will proceed uninfluenced by these observations and may consider any application for expeditious scheduling, victim-centric support under the POCSO framework (including counselling and compensation

⁷ Ramji Lal Bairwa v. State of Rajasthan, (2025) 5 SCC 117;



under the applicable victim compensation scheme), and any lawful interim requests, on their own merits.

15. Disposed of.

SANJEEV NARULA, J

SEPTEMBER 8, 2025

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