



RAJASTHAN HIGH COURT

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

सत्यमेव जयते

S.B. Criminal Miscellaneous (Petition) No. 4032/2025

"F" S/o M A @ G (At present accused lodged in Central Jail, Jaipur)

-----Petitioner

Versus

1. State of Rajasthan, Through P.P.
2. WK S/o WK, R/o Jaipur (North)
3. "A" D/o WK, R/o Jaipur (North).

-----Respondents



For Petitioner(s)	:	Mr. S.S. Hora Mr. T.C.Vyas Mr. Himanshu Agarwal
For Respondent(s)	:	Mr. Amit Gupta-PP Mr. Mohit Gupta

JUSTICE ANOOP KUMAR DHAND

Order

30/10/2025

Reportable

Law of any civilized society is not definite; it changes according to the demands and circumstances of the society.

1. The present criminal misc. petition has been preferred for quashing of the FIR No. 256/2021 registered at the Police Station Amer, District Jaipur City (North) for the offence under Section 376 IPC and Section 3/4 of the POCSO Act.
2. Counsel for the petitioner submits that the respondent No. 2 lodged a report against the petitioner wherein the allegation of rape has been levelled against him and he is facing trial for the above stated offences before the Court of the Special Judge (POCSO Act cases) No.2, Jaipur Metropolitan-II, Jaipur. Counsel



submits that now the victim and the petitioner have solemnized their marriage in accordance with Muslim rights and rituals on 14.05.2025 and their marriage has been registered on 15.05.2025 by the Competent Authority. Counsel submits that under the changed circumstances and in the interest of both the parties, the proceedings arising out of the impugned FIR be quashed.

3. Per contra, Learned Public Prosecutor opposed the prayer but the counsel appearing for the complainant supported the arguments raised by counsel for the petitioner.

4. The respondent No. 3 i.e. victim "A", appeared in person before the Court and she has been duly identified by her counsel. She submitted that after registration of the aforesaid impugned FIR, she has solemnized marriage with the petitioner and subsequently got their marriage registered before the Competent Authority on 15.05.2025. She further submitted that she is leading a happy married life and she does not wish to prosecute the petitioner, therefore, the FIR registered against the petitioner be quashed.

5. Counsel for the petitioner submits that earlier when the petitioner was in custody, he filed S.B. Criminal Misc. Third Interim Bail No. 5537/2025 before this Court with the prayer for releasing him on interim bail for the purpose of solemnizing marriage with the victim. Counsel submits that the said application was allowed by the Co-ordinate Bench of this Court on 08.05.2025 and, after being released from jail, the petitioner and the victim solemnized their marriage and got their marriage registered as well. Counsel submits that the Hon'ble Apex Court in the case of **Mahesh Mukund Patel Vs. State of U.P. and Ors.** reported in **2025 SCC**





Online SC 614 and in the case of **K. Dhandapani Vs. State by the Inspector of Police**, reported in **2022 SCC Online SC 1056** has quashed the FIR and even in cases registered under the POCSO Act considering the victim has solemnized marriage with the accused.



6. Counsel submits that applying the aforesaid principle of law, as laid down by the Hon'ble Apex Court, in the above noted cases, the proceedings against the petitioner be quashed as well.

7. Heard and considered the submissions made at Bar and perused the material available on record.

8. This Court is quite conscious of the fact that the crime of rape can be regarded as the highest form of torture inflicted upon womanhood. It not only inflicts physical torture upon the body of the woman but also adversely affects her mental, psychological and emotional well-being. Therefore, the offence of rape is treated as the most heinous crime against the very basic human right conferred upon woman i.e., 'right to life and dignity'. Such cases must be handled by the Courts with utmost sensitivity and high responsibility.

9. This Court is also well aware that the proceedings arising out of the offences, such as rape, cannot be quashed by exercising its powers under Section 528 of the BNSS, even if a compromise has taken place between the victim and the accused. However, at the same time, the Court cannot ignore or overlook the welfare so also the present and future life of the victim, who has entered into a registered marriage with the accused.

10. Law and transformation is a unique concept which highlights the changes in social problems and their solutions through legal



approach. Law has always been seen as an instrument that can bring about social change.

11. The famous jurist Blackstone once said that "law is a rule of conduct, prescribed by the supreme power of the State, commanding which is right and prohibiting what is wrong." Law consists of rules prescribed by society for the governance of human conduct. As per Roger Cotter, "social change is held to occur only when social structure-patterns of social relations established social norms and social roles changes."

12. Law not only lays down the norms that are acceptable to a given society, but it also lays down the norms regarding when the society should adapt and act in the interest of its own welfare.

According to American Judge Benjamin Cardozo, "final cause of law is the welfare of society." Law should not be definite but must be adaptable according to the requirements and necessities of the society. The law cannot remain immutable and unshakeable.

13. The legal issue involved in the instant petition is "whether the proceedings of a criminal case involving the offence of rape can be quashed when the victim has entered into a registered marriage with the accused ?"

14. It has been observed on various occasions that the Indian Judiciary has been found to be alive to the needs of social thinking. The Hon'ble Apex Court as well as the Highest Constitutional Court of the States have introduced their fresh implications and added new dimensions to the law based on the needs and evolving circumstances, as required by the society.





15. In the instant case, interim bail was granted to the petitioner by the Co-ordinate Bench of this Court on 08.05.2025 for the purpose of solemnizing marriage with the victim and after being released from the jail, the petitioner performed marriage with the victim on 14.05.2025 and their marriage has also been registered by the Competent Authority on 15.05.2025. Hence, under such circumstances, the issue is "whether any purpose would be served by continuing the prosecution against the petitioner or will it cause undue harassment to him as well as the victim ?"

16. Recently, the Hon'ble Apex Court in the case of **K. Kirubakaran Vs. State of Tamil Nadu** while deciding Criminal Appeal No. 679/2024 on 28.10.2025, dealt with a similar situation where the accused was found guilty of the offence under Section 6 of the POCSO Act, and the victim and accused had solemnized marriage. Accordingly, the following observation and direction was issued which reads as under:-

"1. Appellant was convicted for offences punishable under section 366 of the Indian Penal Code, 1872 and section 6 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to rigorous imprisonment for 5 years and 10 years, respectively, with fine. Aggrieved by such conviction and sentence, the appellant preferred an appeal before the High Court of Judicature at Madras. It was dismissed *vide* the impugned judgment and order dated 13th September, 2021.

2. During the pendency of the appeal before the High Court, marriage between the appellant and the victim of crime was solemnized in May 2021. By an order dated 6th February 2024, this Court had directed the Tamil Nadu State Legal Services Authority to ascertain the well-being of the appellant's wife. Pursuant thereto, the Member Secretary of the TNSLSA interacted with the appellant's wife and has submitted a report



revealing that after marriage the appellant and his wife have been blessed with a male child, who is less than one year old, and also that they are leading a happy married life.

3. Wife of the appellant has filed an affidavit before this Court stating that she is dependent upon the appellant and wishes to lead a happy, normal, and peaceful life with him and the child born in their wedlock.

4. During the course of hearing, a prayer was made on behalf of the appellant to invoke the powers of this Court under Article 142 of the Constitution of India for quashing the conviction and sentence in order to avoid disruption of the matrimonial harmony between the parties. We considered it appropriate to first hear the complainant, being the father of the victim. He has appeared before us today through the virtual mode. Answering our query, he has stated in Tamil (conveyed to us by Mr. Krishnamoorthy, learned senior counsel for the State) that he has no objection to the criminal proceedings being brought to an end.

5. The only question which remains to be decided is whether the proceedings should be quashed in the present case, considering that the appellant is convicted of a heinous offence.

6. We are conscious of the fact that a crime is not merely a wrong against an individual but against society as a whole. When an offence is committed, it wounds the collective conscience of the society and therefore the society, acting through its elected lawmakers, determines what would be the punishment for such an offence and how an offender should be dealt with, to deter its recurrence. The criminal law is, thus, a manifestation of the sovereign will of the society. However, the administration of such law is not divorced from the practical realities. Rendering justice demands a nuanced approach. This Court tailors its decisions to the specifics of each case: with firmness and severity wherever necessary and it is merciful when warranted. It is also in the best interest of society to bring a dispute to an end, wherever possible. We draw inspiration from Cardozo, J. to hold that the law aims to ensure not just punishment of the guilty, but also harmony and restoration of the social order.





7. With such perspective in mind, we need to proceed to balance the competing interests of justice, deterrence, and rehabilitation.

8. The founding fathers of the Constitution conferred this Court with the extraordinary power to do "complete justice" in proper cases. This constitutional power stands apart from all other powers and is intended to avoid situations of injustice being caused by the rigid application of law.

9. Per the law made by the legislature, the appellant having been found guilty of a heinous offence, the proceedings in the present case on the basis of a compromise between the appellant and his wife cannot be quashed. But ignoring the cry of the appellant's wife for compassion and empathy will not, in our opinion, serve the ends of justice. Even the most serious offenders of law do receive justice moderated by compassion from the courts, *albeit* in appropriate cases. Given the peculiar facts and circumstances here, a balanced approach combining practicality and empathy is necessary. The appellant and the victim are not only legally married, they are also in their family way. While considering the offence committed by the appellant punishable under the POCSO Act, we have discerned that the crime was not the result of lust but love. The victim of crime herself has expressed her desire to live a peaceful and stable family life with the appellant, upon whom she is dependent, without the appellant carrying the indelible mark on his forehead of being an offender. Continuation of the criminal proceedings and the appellant's incarceration would only disrupt this familial unit and cause irreparable harm to the victim, the infant child, and the fabric of society itself.

10. We are, thus, persuaded to hold that this is a case where the law must yield to the cause of justice.

11. Accordingly, resting on the foregoing considerations, the developments subsequent to the trial, and in the interest of rendering complete justice, we deem it appropriate to invoke our powers under Article 142 of the Constitution of India to quash the criminal proceedings against the appellant including the conviction and sentence. Ordered accordingly.





12. Also, bearing in mind the interests of the appellant's wife and child, we deem it appropriate to subject the appellant to the specific condition of not deserting his wife and child and also to maintain them for the rest of their life with dignity. If, in future, there be any default on the appellant's part and the same is brought to the notice of this Court by his wife or their child or the complainant, the consequences may not be too palatable for the appellant.

13. We make the interim order granting benefit to the appellant of exemption from surrendering absolute and discharge him from the bail bonds."

17. The Hon'ble Apex Court in the case of **Mahesh Mukund Patel (Supra)** has also dealt with an identical situation where a criminal case was registered against the accused therein under Sections 354-A, 363, 366 and 376 IPC and Sections 3 and 4 of the POCSO Act, and subsequently, both the accused and the victim solemnized their marriage, therefore, considering the above factual aspect of the matter, the Hon'ble Apex Court made the following observations and issued the following directions in para 3 to 9:-

"3. The second respondent is the first informant at whose instance, a First Information Report was registered on 18th September, 2016 for the offences punishable under Sections 354A, 363, 366, 376 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Protection of Children from Sexual Offences Act (for short, 'POCSO Act'). The third respondent is the victim of the offence. As can be seen from the allegations in the First Information Report (FIR), the alleged incident is of September, 2016. In the FIR, the second respondent has alleged that the age of the victim was 17 years.

4. Our attention was invited to the marriage certificate issued by the Registrar of Hindu Marriages and Sub Registrar, Varanasi which records that the marriage between the





appellant and third respondent has been solemnized on 5 th December, 2016. The date of birth of the third respondent – victim is shown therein as 20th July, 1998. It is also brought on record that from the wedlock between the appellant and the third respondent, two children have been born whose documents have been produced along with Criminal Miscellaneous Petition No.10906 of 2025.

5. On the last date, we had directed learned counsel appearing for the State to get the marriage certificate relied upon by the parties duly verified. Accordingly, an affidavit has been filed by Dr. Atul Tripathi, ACP, Sarnath in which it is stated that the marriage certificate has been verified and it is found to be genuine and in fact a true copy thereof has been produced along with the affidavit.

6. Our attention is invited to the affidavit filed by the third respondent in which she has accepted the fact that she is happily married to the appellant and they have been residing together. She has disclosed her date of birth as 20th July, 1998. In the record of the Primary School, as can be seen from document at Annexure 'P-1', the date of 2 birth of the third respondent is shown as 20th July, 1998. Ossification test was conducted during the investigation. The report of the test is that on the date of commission of the offence, the age of the third respondent may be between 17 ½ years to 19 years. There are documents on record to show that the date of birth of the third respondent was 20th July, 1998. Therefore, when the offence was allegedly committed in September, 2016 she was already a major.

7. Now that the appellant and third respondent are happily married, no purpose will be served by continuing the prosecution as it will cause undue harassment to the appellant, the third respondent and their children.

8. Coming to the impugned order, we find that the marriage certificate was placed on record before the High Court. In fact, no objection by the first informant is also recorded in the impugned order. Surprisingly,





the High Court instead of entertaining the petition for quashing on the ground of settlement, has observed that the application for dropping criminal proceedings on the basis compromise may be moved before the Trial Court. The High Court completely lost sight of the fact that the Trial Court could not have recorded the settlement and in fact, this was a fit case for the High Court to have exercised its jurisdiction under Section 482 of the Cr.P.C. by quashing the proceedings. Unnecessarily, the parties have been forced to come to this Court.



9. The impugned order is set aside. FIR No.567 of 2016 registered with Cholapur Police Station, District Varanasi and proceedings of the Sessions Trial No.1332 of 2021 pending before the Special Judge, POCSO Act, Varanasi are hereby quashed."

18. Similarly, in the case of **K. Dhandapani (Supra)**, the accused was facing trial for the alleged offence of rape under Section 5/6 of the POCSO Act and the victim subsequently solemnized her marriage with the accused therein. Considering this material aspect of the matter, the Hon'ble Apex Court has made the following observations and issued the following directions in para 2 to 8:-

"2. The appellant who is the maternal uncle of the prosecutrix belongs to Valayar community, which is a most backward community in the State of Tamilnadu. He works as a woodcutter on daily wages in a private factory. FIR was registered against him for committing rape under Sections 5(j)(ii) read with Section 6, 5(I) read with Section 6 and 5(n) read with Section 6 of Protection of Child from Sexual Offences (POCSO) Act, 2012. He was convicted after trial for committing the said offences and sentenced to undergo rigorous imprisonment for a period of 10 years by the Sessions Judge, Fast Track Mahila Court, Tiruppur on 31.10.2018. The High Court, by an order dated 13.02.2019, upheld the



conviction and sentence. Aggrieved thereby, the appellant has filed this appeal.

3. Mr. M.P. Parthiban, learned counsel appearing for the appellant, submitted that allegation against him was that he had physical relations with the prosecutrix on the promise of marrying her. He stated that, in fact, he married the prosecutrix and they have two children.

4. The appellant submitted that this Court should exercise its power under Article 142 of the Constitution and ought to do complete justice and it could not be in the interest of justice to disturb the family life of the appellant and the prosecutrix.

5. After hearing the matter for some time on 08th March, 2022, we directed the District Judge to record the statement of the prosecutrix about her present status. The statement of the prosecutrix has been placed on record in which she has categorically stated that she has two children and they are being taken care of by the appellant and she is leading a happy married life.

6. Dr. Joseph Aristotle S., learned counsel appearing for the State, opposed the grant of any relief to the appellant on the ground that the prosecutrix was aged 14 years on the date of the offence and gave birth to the first child when she was 15 years and second child was born when she was 17 years. He argued that the marriage between the appellant and the prosecutrix is not legal. He expressed his apprehension that the said marriage might be only for the purpose of escaping punishment and there is no guarantee that the appellant will take care of the prosecutrix and the children after this Court grants relief to him.

7. In the peculiar facts and circumstances of this case, we are of the considered view that the conviction and sentence of the appellant who is maternal uncle of the prosecutrix deserves to be set aside in view of the subsequent events that have been brought to the notice of this Court. This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix. We have been informed about the





custom in Tamilnadu of the marriage of a girl with the maternal uncle.

8. For the aforesaid mentioned reasons, the conviction and sentence of the appellant is set aside in the peculiar facts of the case and shall not be treated as a precedent. The appeal is accordingly, disposed of. Pending application(s), if any, shall stand disposed of."



19. Even in the case of **Appellants Vs. State of Anr. ,Criminal Appeal Nos. 394-395 of 2021**, decided on 12.04.2021, the Hon'ble Apex Court has held as under:

"The gravamen of the allegations in the FIR filed by the private respondent was that the appellant had promised her that he will marry her, which promise was not kept by the appellant. The FIR was registered on 17.09.2013.

It is not in dispute that after the registration of FIR, the parties were able to resolve their differences and eventually got married on 11.10.2014. The appellant as well as private respondent represented by Ms. Meenakshi Arora, learned senior counsel jointly state that they are enjoying happy married life.

A joint request is, therefore, made on behalf of the appellant and the private respondent that the FIR registered on 17.09.2013 be quashed as it was the outcome of some misunderstanding between the parties.

Considering the nature of allegations in the FIR and the realization of the fact that due to miscommunication FIR came to be registered at the relevant point of time which issues/misunderstanding have now been fully resolved and the parties are happily married since 11.10.2014, the basis of FIR does not survive. Rather registering such FIR was an ill-advised move on the part of the private respondent, is the stand now taken before us. It is seen that the appellant and private respondent are literate and well-informed persons and have jointly opted for quashing of the stated FIR.

Taking overall view of the matter, therefore, in the interest of justice, we accede to the joint



request of quashing of FIR in the peculiar facts of the present case.

Hence, these appeals must succeed. The impugned judgment and order is set aside. Instead, the Writ Petition filed by the appellant for quashing is allowed, as a result of which, all steps taken on the basis of impugned FIR be treated as effaced from the record in law..”



20. Similarly, in the case of **Jatin Agarwal v. State of Telangana & Anr.** [Criminal Appeal No. 456/2022, decided on 21.03.2022], the Hon’ble Supreme Court has held as under :-

“An FIR was lodged against the appellant by the respondent no.2 for offences under Sections 417, 420 and 376 IPC alleging that the respondent no.2 was introduced to the petitioner through Bharat Matrimony and thereafter they remained in touch with each other. It was alleged that on the promise to marry, the appellant made physical relationship with respondent no.2. Thereafter, since the appellant refused to marry, the FIR was lodged by the respondent no.2. However, it is not disputed that on 23.09.2020, the appellant and the respondent no.2 have got married, for which marriage certificate has also been issued on the same date.

The appellant then filed an application for quashing of the FIR. The High Court dismissed the petition filed under Section 482 Cr.P.C. Aggrieved by the said order, this appeal by way of special leave petition has been filed.

On earlier occasion, this Court directed the respondent no.2 to be present through video-conferencing. Today, respondent no.2, namely, Ms. T. Harshini appeared through video-conferencing, who has been duly identified by Mr. Saivamshi V., learned counsel. Respondent no.2 has made a statement that it is correct that she is now married to the appellant and leading a happy married life and has also made a statement that she does not wish to press the FIR lodged against the appellant.

Considering the aforesaid facts and keeping in view that the respondent no.2/complainant has herself made a statement before us that she has married the appellant and now living happily, we

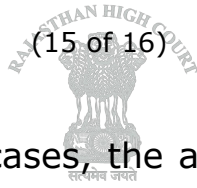


exercise our powers under Article 142 of the Constitution of India and to do complete justice in the matter, we quash the FIR dated 16.08.2020 lodged by the respondent no.2 against the appellant under Sections 417, 420 and 376 IPC."

21. Similar view has been taken by the Co-ordinate Bench of this Court and other High Courts in the following cases:-

1. **Taleeb @ Taleem Vs. State of Rajasthan and Anr.**, (S.B. Criminal Misc. Petition No. 2634/2024 decided on 03.05.2024
2. **Tarun Vaishnav Vs. State of Rajasthan and Anr.** (S.B. Criminal Misc. Petition No. 6323/2022) decided on 13.10.2022
3. **Juber Ali and Anr. Vs. State of Rajasthan and Anr.** (S.B. Criminal Misc. Petition No. 6164/2023) decided on 06.10.2023
4. **Vikas Kumar Vs. State of Rajasthan and Anr.** (S.B. Criminal Misc. Petition No. 1020/2023) decided on 01.11.2023
5. **Jitesh Vs. State of Rajasthan and Anr.** (S.B. Criminal Misc. Petition No.5050/2023) decided on 21.08.2023
6. **Mahendra Pankaj Vs. State of Rajasthan and Anr.** (S.B. Criminal Misc. Petition No. 3330/2023) decided on 09.06.2023
7. **Avdresh Kumar Vs. State of Rajasthan and Ors.** (S.B. Criminal Misc. Petition No.7901/2023) decided on 05.01.2024
8. **Dalveer Singh Vs. State of Rajasthan and Anr.** (S.B. Criminal Misc. Petition No.4504/2018) decided on 03.01.2019
9. **Ashwani Kumar Vs. State of H.P. and Ors.** (Cr. MMO No. 430/2019) decided on 01.08.2019
10. **Moeed Ahamad and Ors. Vs. State of NCT Delhi and Ors.**, reported in **2024 SCC Online Del 8119**





In the above noted cases, the accused persons were facing trial under Sections 3/4 and 5/6 of the POCSO Act along with Section 376 IPC and there were allegations of rape against the accused. After attaining the age of majority, the victim has solemnized and registered marriage with the accused. Considering these facts and circumstances, the proceedings arising out of the criminal cases were quashed to safeguard their future life.



22. In the instant case as well since the victim has appeared before this Court today and stated that she has solemnized marriage with the petitioner and that their marriage has been registered on 15.05.2025, and she has expressed her will and clear intention to lead a happy married life with the petitioner, this Court cannot ignore the ground reality and disturb their married life. Hence, under these circumstances, the continuation of criminal proceedings against the petitioner would certainly hamper their married life. This Court, being a constitutional Court must mercifully protect the feelings and married life of the victim, who has attained the age of majority and has clearly expressed her intention lead a happy married life with the petitioner. In the considered opinion of this Court, no fruitful object would be achieved if the trial is allowed to continue against the petitioner even under such changed circumstances. Incarceration of the petitioner would disturb their family unit and would cause harm to the victim, and the fabric of the society. Hence, following the above cited judgments of the Hon'ble Apex Court, the proceedings against the petitioner are liable to be quashed under the changed circumstances, in favour of the petitioner.



23. Accordingly, the criminal misc. petition stands allowed and the proceedings pending before the Court of Special Judge (POCSO Act Cases) No. 2, Jaipur Metropolitan-II, Jaipur in Sessions case No. 10/2022 stand quashed and set aside, and the petitioner is ordered to be released from jail forthwith, if not required in any other case.

24. Stay application and all pending application(s), if any, also stand disposed of.

25. **Before parting with this order, it is observed by this Court that the instant FIR in question is being quashed, keeping in view the peculiar facts and circumstances of this case, where the prosecutrix/victim has solemnized marriage with the accused petitioner and their marriage has been duly registered by the competent authority. Hence, under these circumstances, this case should not be treated as a precedent regarding powers of this Court to exercise its jurisdiction under Section 528 B.N.S.S. to quash an offence of rape, only on the ground that victim and the accused have entered into compromise.**

(ANOOP KUMAR DHAND),J

Ashu/226