

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MMO No.689 of 2026
Date of Decision: 23.07.2026

Smt. Gumati Devi

.....Petitioner

Versus

State of H.P. and Others

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. Abhinandan Thakur, Advocate.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General, with Mr. Ravi Chauhan and Mr. Anish Banshtu, Deputy Advocates General, for State.

Sandeep Sharma, J. *(Oral)*

Petitioner herein, who is posted as Female Health Worker, and has been made accused in FIR No.55 of 2024, dated 06.05.2024, registered at Police Station Janjehali, District Mandi, Himachal Pradesh, under Section 376 of IPC, Sections 6, 17 and 21 of the POCSO Act, and Sections 9 and 10 of the Prohibition of Child Marriage Act, has approached this Court in the instant proceedings filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for quashing of FIR on the ground that she has been falsely implicated, because she had only prepared the *Jacha Bacha* Card and High Risk Pregnancy Card of the minor brought in the Hospital for medical examination and she had no

knowledge that the said minor is victim of offence committed under Sections 6 and 17 of the POCSO Act.

2. Precisely, the facts of the case, as emerge from the pleadings adduced on record by the respective parties are that FIR sought to be quashed in the instant proceedings came to be lodged at the behest of Dr. Uday Bhanu, Medical Officer, Mandav Hospital, Mandi, Himachal Pradesh, who alleged that on 06.05.2024 at 05:40 pm, victim-prosecutrix, aged 17 years, (name withheld to protect the identity) was brought for delivery of child. Victim-prosecutrix delivered a child, but since at the time of delivery, her age was less than 18 years, matter came to be reported to the Police, which subsequently, on the basis of statement of victim-prosecutrix, recorded under Section 164 of Cr.P.C., lodged FIR against persons namely Kundan Lal, Dinu Ram, Valmu Devi, Ganga Ram, Dhali Devi, Dr. Pushpinder, Kaura Devi, Gainita Devi, Dr. Deicheen Aangmo and petitioner herein.

3. Since it came to be transpired during investigation that petitioner herein, who at relevant time was posted as Female Health Worker at CHC Kelti, had prepared the *Jacha Bacha* Card and High Risk Pregnancy Card of the victim, but yet she failed to report the matter to the Police, case under Section 21 of the POCSO Act also came to be registered against her.

4. Though after completion of investigation, Police has already presented *Challan* in the competent Court of law, but before same could be taken to its logical ends, accused namely Kundan Lal, Dinu Ram, Valmu Devi, Ganga Ram and Dhali Devi approached this Court by way of Cr.MMO No.975 of 2025 filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of FIR on the basis of compromise. Coordinate Bench of this Court, while taking note of statement made by victim-prosecutrix, coupled with the fact that marriage *inter se* victim-prosecutrix and main accused Kundan Lal stood solemnised and out of their wedlock, one child has born, proceeded to quash the FIR against the petitioners, named in the FIR, in afore petition.

5. In yet another case, this Court vide judgment dated 23.04.2026 passed in Cr.MMO No.80 of 2025, titled as *Dr. Dhriti Gupta Vs. State of H.P. and Others*, quashed the FIR in question registered against the petitioner therein by holding that since FIR against principal offenders qua the offences allegedly committed by them under Section 376 of IPC, read with Sections 6, 17 and 21 of POCSO Act and Sections 9 and 10 of the Prohibition of Child Marriage Act has been quashed, the continuation of the criminal proceedings against the petitioner therein would serve no fruitful purpose.

6. Mr. Abhinandan Thakur, learned counsel representing the petitioner, while referring to afore judgments rendered by this Court

vehemently argued that when FIR against the principal offenders qua the offences allegedly committed by them under Section 376 of IPC, read with Sections 6, 17 and 21 of POCSO Act and Sections 9 and 10 of the Prohibition of Child Marriage Act, stands quashed by the Coordinate Bench of this Court while exercising power under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, prayer made on behalf of the petitioner in the case at hand for quashing of FIR also deserves to be allowed.

7. Having carefully perused judgment dated 12.03.2026 rendered by the Coordinate Bench of this Court in Cr.MMO No.975 of 2025, this Court finds merit in the contention of learned counsel representing the petitioner. Factum with regard to quashing of FIR against the principal offenders is fairly admitted by Mr. Rajan Kahol, learned Additional Advocate General, who further stated that in view of quashing of FIR qua the principal offenders, chances of conviction of the petitioner herein are very remote and bleak. At this stage, it would be apt to take note of following Paras of judgment dated 12.03.2026 passed by the Coordinate Bench of this Court in Cr.MMO No.975 of 2025, which read as under:

“5. I have heard learned counsel for the parties and have gone through the records carefully.

6. The status report mentions the age of the victim as 1.2.2007, the marriage was solemnised on 6.2.2025 after the victim had attained

the age of 18 years, the petitioners No.2 and 3 had permitted petitioner No.1 and the victim to reside together, and petitioners Nos. 4 and 5 had not objected to this arrangement. These allegations do not show that the marriage of the minor victim was solemnised, and no offences punishable under Sections 9 and 10 of the Child Marriage Act are made out.

7. The status report further mentions that the marriage was solemnised between petitioner No.1 and respondent No.4/victim and a child was born to them.

8. This Court held in *Shri Devi Vs. State of H.P.* 2019 (3) ShimLC 1746, that where the accused has married the victim, and children are born to them, the continuation of the proceedings would be a futile exercise, and the F.I.R. can be quashed in these circumstances. It was observed:

“9. It is a matter of fact that during the pendency of the present petition, accused-respondent No.2, who was in judicial custody as an undertrial prisoner, was enlarged on interim bail on 07.01.2019, and thereafter complainant-petitioner and accused respondent No.2 are cohabiting in the matrimonial home of the petitioner-complainant, i.e in the native village of accused respondent No.2 in Jammu along with their child. Later on, vide order dated 05.08.2019 passed in Cr. M.P.(M) No. 1757 of 2018, the interim bail granted to the accused-respondent No.2 has also been affirmed. Since January 2019, no untoward incident of harassing or torturing the complainant-petitioner has been reported or noticed.

10. It is a peculiar nature of the case, where the complainant and accused are residing under one and the same roof as husband and wife. Technically speaking, complainant-petitioner has solemnized marriage with

accused-respondent No.2, when she was minor and has not attained the age of discretion at that time, but fact remains that she lived and is living with him in his parental house and has given birth to a child and before attaining age of majority, she also filed a complaint, which resulted into registration of FIR against accused-respondent No.2 and after attaining the age of discretion, she has filed present petition for quashing the criminal proceedings initiated against her husband for betterment of her life as well as welfare of her child. After the grant of bail to the accused-respondent No.2, she has accompanied him along with her child and is residing in her matrimonial house. It is true that as a matter of principle, quashing of FIR based on compromise should not be permitted in case of heinous crime like Section 376 IPC, that too with minor, for the reason that said crime is against the society having adverse impact on it and also that possibility of compromise under any kind of pressure, threat or coercion cannot be ruled out. In such cases, victims normally belong to the weaker class. But in given facts and circumstances of the present case, where offence of rape is made out because a young girl, without waiting for attaining the age of discretion, has left her house to marry accused-respondent No.2 and subjected herself to cohabitation, resulting into delivery of child, and now again residing in her matrimonial house with respondent-accused it cannot be compared with other cases.

11. Observation of the Coordinate Bench of this Court in a similar case decided on 12.01.2017 in Cr.MMO No. 385 of 2016, titled as Chander Vir Kaundal vs. State of H.P., would also be relevant, where it is recorded that, looking at the

case from another angle, since the petitioner has solemnised marriage with the respondent, obviously, there is no possibility of her supporting the charge in case the petitioner is put to trial. Therefore, in such circumstances, the continuation of criminal proceedings would only cause untoward torture or harassment apart from creating undue social and psychological pressure upon the private parties, and it would be an extremely sad story in case the complainant is called in the witness box to depose against the accused, who is none other than her husband.

12. In the present case, also deposition of the victim in the Court in consonance with the prosecution case would lead to landing her husband in jail and pushing her and her child into the pitch dark, whereas retracting from her earlier version may put her in unnecessary trouble.

9. Hon'ble Division Bench of this Court also held in *Ranjeet Kumar v. State of H.P.*, 2023 SCC OnLine HP 1625, that when the accused and the victim married each other, and they were residing happily, the Court can quash the F.I.R. in exercise of its inherent jurisdiction. It was observed:

“45. In the given facts and circumstances, we are persuaded to uphold the view taken by the learned Single Judge(s) in *Sahil* and *Sakshi's* cases (*supra*) and conclude that the High Court in a case of instant kind where the victim had earlier alleged that she had been subjected to sexual assault but then has later on settled the dispute and has got married to the accused and is leading a peaceful life. Invariably, in such cases, the Court, after being satisfied, would not allow the prosecution to continue, which would only result in disturbances of their happy family life.

46. This Court based on the material placed on record has satisfied itself that the child victim and her family members have settled the dispute and the victim is now leading a happy and a peaceful married life and, therefore, allowing the prosecution to continue in such case would only result in disturbance in their happy family life, and ends of justice in such circumstances would demand that the parties be allowed to compromise. We are further satisfied that such a compromise is not a camouflage to escape punishment, and the consent given by the victim for the compromise is voluntary. Lastly and more importantly, the Court is satisfied after considering all the facts and circumstances of the case that quashing the proceedings would promote justice for the victim and continuance of the proceedings would otherwise cause injustice. Ordered accordingly.”

10. Hon’ble Supreme Court also held in Mahesh Mukund Patel vs. State of U.P. & others 2025 SCC OnLine SC 614, that when the accused and victim were happily married, no purpose would be served by continuing the prosecution, and it was a fit case where the High Court should have exercised the jurisdiction under Section 482 of Cr.P.C. by quashing the proceedings. It was observed: -

“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 of 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.”

11. In view of the above binding precedents, the present petition is allowed and FIR No. 55 of 2024, dated 6.5.2024, registered at Police Station Janjahali, District Mandi, H.P., for the commission of offences punishable under Section 376 of IPC, Sections 6, 17 and 21 of POCSO Act, Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006 and the consequent proceedings pending/initiated against the petitioners-accused in pursuance thereto are quashed.”

8. Since Coordinate Bench, having taken note of settlement arrived *inter se* parties, on the basis of which FIR sought to be quashed in the instant proceedings, has already quashed the FIR against the principal offenders, this Court is of the definite view that nothing much has left to be adjudicated in the case at hand. Interestingly, in the case at hand, Court below has not taken cognizance under Section 21 of the POCSO Act, under which offence is alleged to have been committed by the petitioner herein. Though Investigating Agency presented *Challan* under Section 173 Cr.P.C. under Section 370 of IPC read with Sections 6, 17 and 21 of POCSO Act and Sections 9 and 10 of the Prohibition of Child

Marriage Act, but Court while passing order dated 30.08.2024, nowhere took cognizance of offence, if any, committed under Section 21 of the POCSO Act. Though charge in the case at hand is yet to be framed, but since Court has not taken cognizance of Section 21 of the POCSO Act, it is not understood that how case under the aforesaid provision of law otherwise would be maintainable against the petitioner.

9. Needless to say, at the time of issuance of process under Section 190 Cr.P.C., Court is required to satisfy itself with regard to the authenticity and correctness of allegations levelled against the accused and in case allegation is not supported by cogent and convincing evidence, it may not take cognizance and discharge the accused at that stage. Be that as it may, once in the case at hand, FIR against the principal offenders stands quashed on the basis of statement made by victim-prosecutrix, no fruitful purpose would be otherwise served by permitting the FIR sought to be quashed to continue against the petitioner herein. Since on account of compromise arrived *inter se* victim-prosecutrix and other principal offenders, case of the prosecution is likely to fail in all probabilities, there appears to be no justification to let the petitioner suffer in a case which is bound to fail.

10. Though no specific objection has been raised at the behest of respondent-State with regard to maintainability of the present petition under Section 528 of the BNSS, but otherwise also, by now it is well-

settled that where a criminal proceeding is manifestly attended with *mala fide* and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him/her due to private and personal grudge, High Court while exercising power under Section 528 of BNSS can proceed to quash the proceedings.

11. Reliance in this regard is placed upon judgments passed by the Hon'ble Apex Court in ***Prashant Bharti Vs. State (NCT of Delhi), (2013) 9 SCC 293, Rajiv Thapar and Others Vs. Madan Lal Kapoor, (2013) 3 SCC 330, Anand Kumar Mohatta and Anr. v. State (Government of NCT of Delhi) Department of Home and Anr, AIR 2019 SC 210 and Pramod Suryabhan Pawar v. The State of Maharashtra and Anr, (2019) 9 SCC 608.***

12. Since for the reasons detailed hereinabove, case of prosecution is bound to fail against the petitioner in all probabilities, in case prayer made on behalf of the petitioner is not accepted, she would be subjected to unnecessary ordeal of facing protracted trial, which otherwise is bound to fail.

13. Consequently, in view of detailed discussions made hereinabove as well as law taken into consideration, this Court finds merit in the present petition and accordingly the same is allowed. FIR No.55 of 2024, dated 06.05.2024, registered at Police Station Janjehali, District Mandi, Himachal Pradesh, under Section 376 of IPC, Sections 6, 17 and

21 of the POCSO Act, and Sections 9 and 10 of the Prohibition of Child Marriage Act, along with consequential proceedings is quashed and set aside qua the petitioner only. Accused is acquitted of the charges framed against her.

The petition stands disposed of in the aforesaid terms, along with all pending applications.

July 23, 2026
Rajeev Raturi

(Sandeep Sharma),
Judge