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"If Husband/Accused Is Convicted Then Victim/Wife's Future Would Be Ruined" : Allahabad High Court Quashes POCSO Case

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23 Sep 2022 12:39 PM





The **Allahabad High Court** recently quashed an FIR and criminal proceedings in a POCSO case registered against a man as it noted that the accused man and victim-wife (who was a minor at the time of the incident) married the applicant/accused out of her own sweet will and is living a happy married life with him.

*"To punish the offenders for a crime, involved in the present case, is in the interest of society, but, at the same time, the husband is taking care of his wife and in case, the husband is convicted and sentenced for societal interest, then, the wife will be in great trouble and their future would be ruined. It is also in the interest of society to settle and resettle the family for their welfare," the bench of **Justice Manju Rani Chauhan** observed as it quashed the rape-POCSO case against the accused.*

The case in brief

An FIR was lodged by the maternal uncle of the Victim against the accused under Sections 363, 366, and 376 I.P.C. and Section 3/4 of the POCSO Act. It was alleged that the accused had raped the victim (then a 17-year-old minor).

However, the accused moved the instant Section 482 CrPC plea seeking to quash the instant FIR. The victim also appeared before the Court and submitted that her maternal uncle had lodged the FIR in an attempt to ruin her married life.

She further stated that she has entered into a compromise with the accused and has married him out of her free will, and consent, and without any external pressure, coercion, or threat of any kind. It was also submitted that out of their wedlock, they are blessed with a male child, who is presently four and half years old and as per her date of birth, she was nearly 17 and half years old at the time of marriage.

Against this backdrop, the accused-applicant submitted that on account of the compromise entered into between the parties concerned, all disputes between them have come to an end, and therefore, further proceedings in the case are liable to be quashed.

Court's observations

At the outset, the Court noted that though the offence under the relevant sections 363, 366 and 376 of IPC and Sections 3/4 of POCSO Act are not compoundable under Section 320 Cr.P.C, however, the Court added that the power of the High Court under Section 482 Cr.P.C is **not** inhibited by the provisions of Section 320 Cr.P.C and FIR as well as criminal proceedings can

be quashed by exercising inherent powers under Section 482 Cr.P.C, if warranted in given facts and circumstances of the case for ends of justice or to prevent abuse of the process of any Court, even in those cases which are not compoundable where parties have settled the matter between themselves.

Thus, considering the facts and circumstances of the case, and also the submissions made by the counsel for the parties, the court came to the considered opinion that the victim herself, has stated before this Court that she has married the applicant out of her own sweet will and is living a happy married life and out of their wedlock, they are blessed with a male child, therefore, no useful purpose shall be served by prolonging the proceedings of the criminal case as the parties have already settled their dispute.

Accordingly, the charge sheet and the cognizance order as well as the entire proceedings of the Criminal Case were hereby quashed. The application was, accordingly, allowed.

Case title - Rajiv Kumar v. State Of U.P. And 2 Others [APPLICATION 482 No. - 4392 of 2016]

Case Citation: 2022 LiveLaw (AB) 442

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