



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 2163/2024

Madam 'W'

----Petitioner

Versus

1. State Of Rajasthan, Through Pp

Mr. H.

----Respondents



For Petitioner(s) : Ms. Dolly Jaiswal a/w
Mr. Hemank Vaishnav.

For Respondent(s) : Mr. Gaurav Singh, PP

HON'BLE MR. JUSTICE ARUN MONGA

Order

13/08/2024

1. Parties names are being masked in the instant order as W and H, respectively, in order to protect their right of privacy. The Registry to observe strict caution in future, in matters of this type as the one in hand. The facts of this case are rather peculiar. The prosecutrix herself is before this Court seeking the quashing of FIR No. 0239/2023 dated 09.09.2023, registered against her husband for alleged offenses under Sections 363 and 376(2)(n) of the IPC and Sections 4, 5j(ii), and 6 of the POCSO Act against respondent No. 2, at P.S. Kherwara, District Udaipur, against the accused, who is currently her husband. She states that the FIR was registered under pressure from her family members, as she could not hide her consensual relationship at the relevant time due to her pregnancy. Further facts are detailed in the succeeding part of the order.

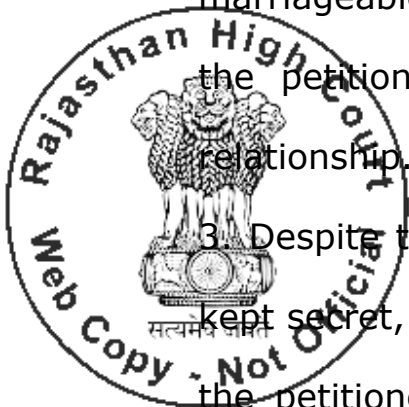
2. The petitioner/complainant was 17 years old at the relevant time, which is legally below the age of consent. Respondent No. 2, who was then her boyfriend, was 21 years old and of marriageable age. Since the petitioner was a few months short of reaching marriageable age, they could not get married. On the other hand, the petitioner's family members strongly disapproved of their relationship.

3. Despite this, the consensual relationship continued, which was kept secret, but was eventually disclosed to the entire family when the petitioner became pregnant, as noted above. Subsequently, the FIR was registered, and an investigation ensued. During the investigation, the accused was arrested on 18.09.2023 and has been in judicial custody ever since.

4. While the trial is ongoing, the testimony of the prosecutrix has been recorded. She submits that, at the time of recording her testimony, she was still under continued pressure and duress from her family members and, owing to their coercive tactics, she was compelled to make a statement on dotted lines as dictated by them.

5. Furthermore, it is pointed out that subsequent to the recording of her statement, when the petitioner attained the age of majority, she asserted her rights and entered into a written compromise dated 21.02.2024 with the accused, exonerating him of all charges.

6. Learned counsel for the petitioner states that even today, as was the case before, the petitioner is not interested in pressing any charges. He points out another rather interesting development



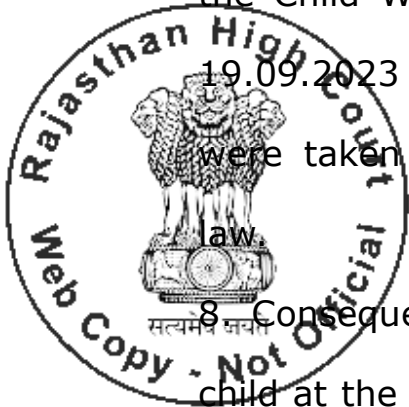
during the trial: the prosecutrix and the accused have got married on 22.05.2024, according to Hindu rites, when the accused was on interim bail.

7. It also transpires that, being a POCSO case and the prosecutrix being a minor at the relevant time, under the recommendations of the Child Welfare Committee (CWC) followed by an order dated 19.09.2023 passed by a coordinate Bench of this Court, steps were taken to terminate the pregnancy in accordance with the law.

8. Consequently, despite the petitioner being willing to bear the child at the relevant time, her wishes were not fulfilled due to her age. She now wishes to fulfill those desires after her marriage to respondent No. 2 and live a happy family life with him. However, the pending criminal proceedings are preventing them from enjoying marital bliss, as respondent No. 2 remains incarcerated due to the alleged offense committed by him.

9. I am of the view that, in light of the factual narrative noted above, this is a fit case to exercise the discretionary jurisdiction under Section 482 of Cr.P.C. (528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) in the larger interest of justice and to avoid hardship to the parties, enabling them to live together in a congenial atmosphere and develop the harmony essential for a happy married life.

10. The petition is thus allowed, and FIR No. 0239/2023, dated 09.09.2023, registered at Police Station Kherwara, District Udaipur, and all consequential proceedings for offenses under Sections 363 and 376(2)(n) of the IPC and Sections 4, 5j(ii), and 6 of the POCSO Act against respondent No. 2 are quashed, with



consequences to follow. Resultantly, respondent no.2 (name and particulars as per memo of parties) is directed to be set free forthwith.

11. Any pending application(s), if any, stand disposed of.

(ARUN MONGA),J



19-Jitender
Whether fit for reporting : Yes / No