



2026:AHC:56367

## HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 11023 of 2026

Hajari Sonkar @ Rajan

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite  
Party(s)

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| Counsel for Applicant(s)      | : | Praveen Kumar Pal |
| Counsel for Opposite Party(s) | : | G.A.              |

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**Court No. - 81**

**HON'BLE VIVEK KUMAR SINGH, J.**

1. Vakalatnama filed today by Sri Ravindra Yadav on behalf of the informant-opposite party no. 2 is taken on record.
2. Supplementary affidavit filed today is also taken on record.
3. Heard learned counsel for the applicant, learned A.G.A. appearing for the State respondents and Sri Ravindra Yadav, learned counsel appearing for the informant-respondent no. 2.
4. Present application has been filed for quashing the entire criminal proceeding in S.S.T. No. 18 of 2019 (State vs. Hajari Sonkar) arising out of Case Crime No. 743 of 2016, under Section 363, 366 IPC and Section 17/18 of POCSO Act, Police Station Gaura Badshahpur, District Jaunpur including charge-sheet dated 12.4.2017 bearing No. 20 of 2017.
5. Brief facts of the case are that the opposite party / first informant lodged a first information report on 21.10.2016 in respect of alleged incident committed on the same day at 05:00 A.M. The first information report was registered as Case Crime No. 743 of 2016, under Sections 363, 366 IPC and Section 17/18 of POCSO Act at Police Station Gaura Badshahpur, District Jaunpur, wherein allegation has been levelled by the informant that his daughter aged about 14 years is missing from the house. It was informed by witnesses that the victim was being enticed away by the applicant at 05:00 A.M.

6. The Investigating Officer after due investigation submitted charge-sheet in this case against the applicant on 12.4.2017 and the learned Magistrate took cognizance of offence vide order dated 7.2.2019. The trial is going on and the case is fixed for evidence of prosecution witnesses. Meantime, an application was filed duly signed by the applicant and first informant of the present case, wherein it is mentioned that marriage has been solemnized between the parties and now the applicant and the victim are proud parents of a baby girl. They are living together happily. The first informant and his wife are also happy with the said marriage. The dispute has been amicably settled between the applicant and the informant. The compromise dated 24.2.2026 has been appended as Annexure-4 to this application.

7. The learned counsel for the opposite party no. 2 / informant did not oppose the prayer made by the applicant and supported the contentions of learned counsel for the applicant.

8. It is admitted by the learned counsel for the informant that the marriage has been solemnized between the applicant and the victim and he has no objection if the proceedings of the present case is quashed by this Court. No dispute has been raised by learned counsel for the informant in respect of the compromise application dated 24.2.2026 or the fact of the marriage of the applicant and the victim. He admitted that a baby girl was borne out of the wedlock of the applicant and the victim.

9. Learned A.G.A. opposed the prayer made by the applicant but could not dispute the aforesaid fact of marriage and birth of a baby girl to the applicant and the victim.

10. I have heard the arguments of the learned counsel for the parties and perused the record.

11. Undoubtedly, the marriage of the applicant and the victim was solemnized long way back, which was accepted by the victim when she was produced before this Court in Habeas Corpus Writ Petition No. 3873 of 2018 (Smt. Shivangi and another vs. State of U.P. and others) on 10.12.2018. The victim has categorically stated that she has solemnized her marriage with the applicant and she wanted to join the company of the

applicant. She would not go to the house of her father. In view of the categorical statement made by the corpus / victim before this Court on 10.12.2018, the petition was allowed and the victim was set at liberty and, therefore, was permitted to go wherever she wanted to go. The order dated 10.12.2018 passed by this Court is quoted as under:-

"In compliance of order of this Court dated 16.11.2018, the medical verification with regard to the age of the girl has been done by a team of Doctors. The certificate issued by the said team has been produced before this Court, as per which the age of girl is 17 years.

The record shows that earlier also the girl has eloped with the petitioner no. 2 with regard to which First Information Report was lodged. The girl was recovered, she was medically examined and thereafter she was living with her parents. Subsequently, she again eloped with the same person i.e. petitioner no. 2, again a First Information Report has been lodged, again the girl was recovered and she was sent to Nari Niketan. Much reliance has been placed on the statement of the girl recorded under Section 164 Cr.P.C., copy of which has been annexed at page no. 20 of the paper book. Reliance has also been placed on the averments made in the paragraph nos. 10, 11, 12, 13 and 15 of the affidavit.

In compliance of order of this Court dated 16.11.2018, petitioner no. 1 - Smt. Shivangi has been produced before this Court from Government Women Home / Nari Niketan, District Ballia by Mahila Constable Km. Ritu (P.No. 152090889) and Pavitra Bhushan Tiwari (P.No. 062590310).

Corpus Smt. Shivangi - petitioner no. 1 has identified petitioner no. 2 - Rajan @ Hajari Sonkar as her husband, who in turn identified petitioner no. 1 as his wife.

Learned counsel for the petitioners has identified both the petitioners on the basis of document produced before him in his chamber.

Since the corpus is present before this Court today, the Court proceeds to examine the corpus Smt. Shivangi.

On being asked, corpus Smt. Shivangi - petitioner no. 1, has made a statement before this Court that "mera naam Shivangi hai, mere pita ka

naam Banke Lal Vishwakarma hai, maine Rajan @ Hajari Sonkar se apni marji se shadi ki hai, main apne pati ke saath jaana chahti hun, main apne mata pita se milna nahi chahti hun."

In view of the categorical statement made by corpus Smt. Shivangi - petitioner no. 1 before this Court today as well as the age certificate issued by team of doctors, the Court has been left with no option but to allow the petition.

Accordingly, the writ petition is allowed. The corpus Smt. Shivangi - petitioner no. 1 is set at liberty forthwith and permitted to go wherever she wants to go. It is made clear that no hindrance will be caused in this regard and corpus Smt. Shivangi - petitioner no. 1 is free to move from this Court."

12. The birth certificate of a baby girl has been appended as Annexure-5 to the affidavit, wherein date of birth is mentioned as 12.11.2022 and name of the applicant and the victim is mentioned as father and mother of the baby girl.

13. The statement of the victim had already been recorded before the trial court on 3.9.2022 as PW-2, wherein she clearly stated that at the time of incident she was aged about 18-19 years and she was madly in love with the applicant. On 21.10.2016, she left her parental home on her own will and thereafter the marriage was solemnized between the parties. She was neither enticed away nor kidnapped by the applicant. Now she is married wife of the applicant. However, her father was not happy with the marriage, therefore, a false first information report was lodged against the applicant. Since the victim did not support the prosecution case, therefore, she was declared hostile by the learned A.D.G.C. and she was cross-examined by him. By that time, the marriage was not accepted by the first informant but now he has already moved an application dated 24.2.2026 before the trial court and he has accepted the applicant as his son-in-law.

14. The married couple are also living together for a very long time and the dispute has been settled between the applicant and the informant. The informant is ready to drop the criminal proceedings against the applicant and he has accepted the marriage of the applicant and the victim, which

was solemnized long way back.

15. Reference may be made to the judgements of Supreme Court in **K. Dhandapani Vs. The State By the Inspector of Police, 2022 SCC OnLine SC 1056** and **Mafat Lal and other Vs. The State of Rajasthan, 2022 SCC OnLine SC 433**, wherein, the Apex Court quashed the criminal prosecution of accused therein on the ground that accused had solemnized marriage with the prosecutrix and court cannot turn a blind eye to the said fact. In the submission of learned counsel for applicants, the ratio laid down by Apex Court in aforementioned judgements is squarely applicable to the facts of the present case. As such, no exception can be carved out in the case of present applicants with reference to the aforementioned judgements of Supreme Court inasmuch as the applicant no.1 has also solemnized marriage with the prosecutrix and the parties are happily living together. On the above conspectus, the learned counsel for applicants submits that the criminal prosecution of applicants cannot be sustained in law as well as fact and therefore, the same is liable to be quashed by this Court.

16. The Apex Court in the case of **K. Dhandapani (supra)** and **Mafat Lal (Supra)** also quashed the proceedings against the accused therein on the grounds that the accused had solemnized marriage with the prosecutrix and secondly, the court cannot turn a blind eye to the said fact. Since the judgement rendered by Apex Court in the case of K. Dhandapani (supra) is a short one, therefore, the same is reproduced in its entirety:

"Leave granted.

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 Reason: 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.

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.

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.

After hearing the matter for some time on 08 th 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.

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.

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.

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.

In case, the appellant does not take proper care of the prosecutrix, she or the State on behalf of the prosecutrix can move this Court for modification of this Order."

17. The Apex Court in the case of **Shriram Urav Vs. State of Chhattisgarh in Criminal Appeal No(S). 41/2021**, decided on 10.01.2025, also quashed the conviction as well as the sentence imposed upon the appellant on the ground that the appellant/accused and the complainant/victim had married each other.

18. Similarly, in the case of **Dasari Srikant vs. State of Telangana reported in (2024) SCC OnLine SC 936**, wherein, under identical circumstances and almost identical provisions the Supreme Court quashed the proceedings instituted against the accused therein. The relevant paragraph 8 to 10 of the Dasari Srikant (supra) read as under:-

"8. Since, the appellant and the complainant have married each other, the affirmation of the judgment rendered by the High Court would have the disastrous consequence on the accused appellant being sent to jail which in turn could put his matrimonial relationship with the complainant in danger.

9. As a consequence, we are inclined to exercise the powers under Article 142 of the Constitution of India for quashing the conviction of the accused appellant as recorded by the learned trial Court and modified by the High Court.

10. As a result, the impugned judgment dated 27th June, 2023 passed by the High Court and judgment dated 9th April, 2021 passed by the trial Court are hereby quashed and set aside."

19. In another judgment of **Mahesh Mukund Patel vs. State of U.P. and**

**Others, reported in 2025 SCC OnLine SC 614**, the Hon'ble Supreme Court quashed the proceedings of offence, punishable under Section 354A, 363, 366, 376 of the Indian Penal Code, 1860 and Section 3 and 4 of the Protection of Children from Sexual Offences Act on the ground of marriage between the accused and the victim. It was brought on record that from the wedlock between the accused and the victim, two children were born, whose documents were produced alongwith the appeal. The Apex Court in this case quashed the proceedings on the ground that no purpose would be served by continuing the prosecution as it would cause undue harassment to the appellant/accused and the victim and their children.

20. The Supreme Court in another judgment of **Madhukar and Others vs. The State of Maharashtra and Another, arising out of SLP (Criminal) No. 7212 of 2025**, alongwith **Prabhakar vs. The State of Maharashtra and Another, arising out of SLP (Criminal) No. 7495 of 2025**, quashed the proceedings of case crime no.302 of 2023, dated 20.11.2023, under sections 324, 141, 143, 147, 149, 452, 323, 504 and 506 of the Indian Penal Code, 1860 as well as quashed the proceedings of case crime no.304 of 2023, dated 21.11.2023, under sections 376, 354-A, 354-D, 509 and 506 IPC on the basis of compromise between the parties. Paragraph nos.6, 7 and 8 of the said judgment are reproduced herein:-

"6. At the outset, we recognise that the offence under Section 376 IPC is undoubtedly of a grave and heinous nature. Ordinarily, quashing of proceedings involving such offences on the ground of settlement between the parties is discouraged and should not be permitted lightly. However, the power of the Court under Section 482 CrPC to secure the ends of justice is not constrained by a rigid formula and must be exercised with reference to the facts of each case.

7. In the present matter, we are confronted with an unusual situation where the FIR invoking serious charges, including Section 376 IPC, was filed immediately following an earlier FIR lodged by the opposing side. This sequence of events lends a certain context to the allegations and suggests that the second FIR may have been a reactionary step. More importantly, the complainant in the second FIR has unequivocally

expressed her desire not to pursue the case. She has submitted that she is now married, settled in her personal life, and continuing with the criminal proceedings would only disturb her peace and stability. Her stand is neither tentative nor ambiguous, she has consistently maintained, including through an affidavit on record, that she does not support the prosecution and wants the matter to end. The parties have also amicably resolved their differences and arrived at a mutual understanding. In these circumstances, the continuation of the trial would not serve any meaningful purpose. It would only prolong distress for all concerned, especially the complainant, and burden the Courts without the likelihood of a productive outcome.

8. Therefore, having considered the peculiar facts and circumstances of this case, and taking into account the categorical stand taken by the complainant and the nature of the settlement, we are of the opinion that the continuation of the criminal proceedings would serve no useful purpose and would only amount to abuse of process."

21. In view of the ratio laid down by the Hon'ble Apex Court in the aforementioned judgments as well as facts of the case, the present application succeeds and is liable to be allowed. It is accordingly allowed.

22. The entire proceedings of S.S.T. No. 18 of 2019 (State vs. Hajari Sonkar) arising out of Case Crime No. 743 of 2016, under Section 363, 366 IPC and Section 17/18 of POCSO Act, Police Station Gaura Badshahpur, District Jaunpur including charge-sheet dated 12.4.2017 bearing No. 20 of 2017 are hereby quashed.

23. No order as to costs.

**(Vivek Kumar Singh,J.)**

**March 19, 2026**

Lalit Shukla