



IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-2921-2025 (O&M)

Date of Decision:29.07.2025

**Raj Mangal Mehto**

....Petitioner(s)

Versus

**State of Haryana and others**

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. Akshit, Advocate, for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Ashish Bansal, Advocate as *Amicus Curiae*.

Mr. Shivam Sharma, Advocate, for respondents No.2 and 3.

\*\*\*\*

**JASGURPREET SINGH PURI, J.**

1. A significant issue which has arisen in the present petition is with regard to whether there can be quashing of FIR based upon compromise between the parties where the allegations are pertaining to offence of rape committed upon a minor girl attracting provisions of POCSO Act.

2. The present petition has been filed under Section 528 of BNSS, 2023 (earlier Section 482 Cr.P.C.) for quashing of FIR No.587 dated 30.08.2013, under Sections 363, 366-A and 34 IPC (Sections 376 IPC and Section 4 of POCSO Act added later on), registered at Police Station Sadar, Gurugram on the basis of compromise (Annexure P-2) with the victim and the complainant.

**Facts of the case**

3. On 30.08.2013, FIR was lodged vide Annexure P-1 by respondent No.2 against the present petitioner by alleging that he has enticed



away his daughter of the age of 13 years to some unknown place. It was alleged that on 08.07.2013, the daughter of the complainant left her house and has not come back till date and the present petitioner is also not present at his house and the complainant has got information that the petitioner along with his friends who live with him in the same room has enticed away his daughter and taken her somewhere and his daughter is in their custody. The aforesaid FIR which has been attached with the present petition as Annexure P-1 is reproduced as under:-

“HARYANA POLICE CITIZEN SERVICES  
FIRST INFORMATION REPORT  
(Under Section 154 Cr.P.C.)

*1. District: Gurgaon*

*Police Station: Gurgaon Sadar*

*Year 2013*

*FIR No.587*

*Dated: 30.08.2013*

*2. Act (s)*

*Section(s)*

*1. Indian Penal Code, 1860*

*363*

*2. Indian Penal Code, 1860*

*366*

*3. Indian Penal Code, 1860*

*34*

*4. Indian Penal Code, 1860*

*376*

*12. FIR Contents (attach separate sheet, if required):*

*"To, Respected DCP Sir, East Gurgaon, Subject: Complaint against Raju Mehto @ Raj Mangal Mehto S/o Vibhai Mehto Presently Residing at Rajiv Colony, Gurgaon, Gali no. 2 and against his companions regarding the enticing the daughter of the applicant at some unknown place whose age is about 13 years. Sir, it is respectfully submitted that, I applicant namely Ganesh Chaudhary is presently residing at Rajiv Colony, House no. 27/A Naharpur Rupa, Gali no. 1, Gurgaon Haryana and my permanent address is village Chobadlia, Post Gheghva, Police Station Madhuban Tetria Factory, District Motihari, Eastern Champaran Bihar. That I submit as follows: 1. Sir on dated 08.07.2013, my daughter namely xxxx aged about 13 years*



suddenly left her house and she has not come back till now. 2. Sir, the abovementioned accused namely Raju Mehto alias Mangal is also not present in his house since then and I have got an information that the abovementioned Raju Mehto alias Raj Mangal along with his friends who are living with him in the room has enticed my daughter and taken her to somewhere and my daughter is in the custody of them. That the name and address of the friends of Raju Metho alias Raj Mangal Mehto are as follows: 1. Raju Metho alias Raj Mangal Metho S/o Sh. Bibhai Mehto, permanent address: Village Bokane Bakda Pokhara, Police Station Patahi, District Mohihari, Eastern Champaran Bihar. 2. Hari Mehto S/o Sh. Ram Asre Mehto, permanent address: Bokani Khurd, Police Station Patahi District Mohihari, Eastern Champaran Bihar. 3. Dinanath Metho S/o Sh. Khakhan Mehto permanent address: Kodaria Police Station Madhuban District Motihari, Eastern Champaran, Bihar. 4. Shatrugan Metho, S/o Chander Mehto permanent address: Bokani Khurd, Police Station Patahi District Mohihari, Eastern Champaran Bihar. 5. Chattu Mehto S/o Sh. Ram chander Metho permanent address: Bokani Khurd, Police Station Patahi District Motihari, Eastern Champaran Bihar. Sir, we have lodged the complaint in Police Station Sadar Gurgaon, in which we gave information regarding Hari Mehto and Shatrugan Metho to Police staff in Police Station Sadar Gurgaon. However, the police staff has caught the abovementioned persons and released them without any interrogation and my daughter whereabouts are still unknown and no action has been taken against the abovementioned accused. Whenever, I approach Police Station Sadar Gurgaon to ask about my daughter and abovementioned accused then they scold me and always send me back from the Police Station. Even after the lapse of about 2 months the whereabouts of my daughter is still unknown. It is requested to you that, an FIR may kindly be registered against the abovementioned accused and a search may kindly be conducted of my daughter namely xxxx aged about 13 years, as soon as



*possible who is in the custody of the abovementioned accused and the abovementioned accused has enticed my daughter away. I shall very be thankful to you. Dated 30.08.2013. Applicant Sd/- Ganesh."*

*14. Signature/Thumb Impression Signature of Officer*

*Or the complainant/Infomant:- in charge of Police Station*

*Name: Virender*

*Rank: P/SI*

*No. 00000061”*

4. The present petition has been filed for quashing of the aforesaid FIR on the basis of compromise which has been stated to have been entered into by the brother of the petitioner with the respondents who are the complainant and the victim. The aforesaid compromise which has been attached along with the present petition as Annexure P-2 is reproduced as under:-

**“COMPROMISE DEED**

*This Compromise Deed is made on this day 03rd June 2024 between*

***1. Mr. Ganesh Chudhari (Aadhar No.234232846918) S/o Sh. Shankar Chudhari R/o Dhobaliya, Tetaria, East Champaran, Bihar 845436.***

***2. xxxx (Aadhar No.676980617307) D/o Mr. Ganesh Chudhari and W/o Sh. Raj Mangal Mahto R/o Bokano Kala, East Champaran, Bihar 845414 (hereinafter referred as First Party of the Memo)***

***And***

***Mr. Raj Mangal Mahto (Aadhar No.746032205943) S/o Sh. Vishwrath Mahto resident of Bokano Kala, East Champaran, Bihar 845414 (IN JUDICIAL CUSTODY) through his real brother and guardian Mr. Raju Mahto (Aadhar No.428832579536) S/o Sh. Vishwnath Mahto resident of Bokano Kala, East Champaran, Bihar referred as***



***Second Party of the Memo) 845414 (hereinafter referred as  
Second Party of the Memo)***

*The expression first party and second party of respective parties shall mean and include themselves only.*

*WHEREAS the first party i.e. father of Victim xxxx, has lodged two FIR No. 587 / 2013, U/s: 363/366 IPC and Under Section 4/12 of POCSO Act. in, P.S. Sadar, Gurugram and FIR No. 419 / 2014, U/s: 363/366 IPC and Under Section 4/12 of POCSO Act. in, P.S. Sadar, Gurugram against second party Mr. Raj Mangal Mahto i.e. accused and the matter is pending before the court of Sh. Ashwani Kumar Mehta, ASJ, Gurugram.*

*AND WHEREAS now the parties have decided the matter amicably due to the intervention of the elders and respectable persons, friends and well wishers of the following terms and condition:-*

*NOW THIS COMPROMISE DEED WITNESSES AS UNDER:-*

*1. That the First Party admitted that her daughter xxxx i.e. Victim got married with the second party i.e. accused Raj Mangal Mahto with her own wish and has also admitted that her daughter was aged about 18 years at the time of leaving the home with accused Mr. Raj Mangal Mahto. The First party admitted that her daughter is living with second party i.e. Raj Mangal Mahto for the last 11 years in house of accused Raj Mangal Mahto at Bokano Kalan, East Champaran, Bihar in a happy married life and she is having four kids namely Ankita Kumari, Gulshan Kumar, Ripu Kumar and Kartik Kumar out of this wedlock.*

*2. That the First Party i.e. father of Victim has also admitted that her daughter got married with second party i.e. Raj Mangal Mahoto with her own wish and without any pressure. The First Party further admitted that he has lodged the alleged FIR No.587 & 419 due to some misunderstanding and out of love and affection with her daughter and the First Party is now agreed to quash/cancel the said FIR no.587 & 419 of P.S.*



*Sadar, Gurugram. The parties further undertake that they will not have any kind of ill will and grudge against each other. This Compromise Deed is in benefit and best interest of the parties. If any other litigation stands pending against second party Mr. Raj Mangal Mahto, the same shall be withdrawn in pursuance of the present compromise deed by the parties concerned at his risks and costs.*

*3. That the parties to the present Compromise deed have signed in the presence of two witnesses voluntarily and without any force, fraud, pressure, undue influence and coercion from any corner.*

*This Compromise Deed is hereby signed by the parties on this 03rd day of June 2024.*

***FIRST PARTY***

***SECOND PARTY***

***1. Ganesh Chudhani***

***Raj Mangal Mahto  
(In judicial Custody)  
through his real brother  
and guardian Sh. Raju  
Mahto***

***2. XXXX***

**Submissions made by learned counsel  
for the petitioner**

5. Mr. Akshit, learned counsel appearing on behalf of the petitioner submitted that even though, as per the FIR, the age of respondent No.3-victim was 13 years at the time of alleged occurrence and the allegations against the petitioner were that the victim was enticed away by the petitioner and thereafter, they got married to each other but now the matter has been amicably settled between the parties with the intervention of the respectables and it has been stated in the compromise that the FIR was lodged on the basis of some misunderstanding and the trial is still pending.



He submitted that considering the fact that the matter has been compromised between the parties, the present FIR may be quashed on the basis of compromise. He further submitted that respondent No.3-victim had left her house on her own free will and got married with the petitioner and thereafter, four children were born out of the said wedlock and the victim has otherwise also attained the age of majority and therefore, considering the facts and circumstances of the present case whereby the petitioner and respondent No.3-victim have already got married to each other and four children were born out of the wedlock, it will be just and proper in case the FIR is quashed on the basis of compromise so as to prevent miscarriage of justice. He also submitted that although the petitioner is in judicial custody but the same itself is not a ground for proceeding further with the trial of the case because of the aforesaid reason that the matter has been voluntarily settled between the parties. He also submitted that since the petitioner is in judicial custody, the compromise was arrived at between the brother of the petitioner on the one hand and the complainant and victim on the other hand. He submitted that although the compromise was arrived at with the brother of the petitioner but at the same time, the present petition has been filed by the petitioner himself and not through his brother and therefore, there is no bar for quashing of the FIR on the basis of compromise.

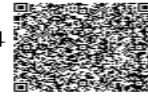
6. Learned counsel has further argued that with regard to the marriage of the petitioner with respondent No.3-victim, a marriage certificate has been attached along with the present petition as Annexure P-3, which clearly shows, that the aforesaid certificate dated 10.06.2016 has been issued by the competent authority by stating that the marriage has been registered with effect from 15.06.2013. The aforesaid marriage certificate



has been issued by Marriage Officer, Motihari, in the State of Bihar. He further submitted that although the offence alleged against the petitioner pertains to the offence of rape but since the petitioner and respondent No.3 have already got married and have four children out of the wedlock, no useful purpose will be served in case further prosecution is carried on, considering the peculiar facts and circumstances of the present case.

7. Learned counsel also submitted that minor children born out of the wedlock need love, care and support of both the parents for their emotional, physiological and financial well-being and continuation of the criminal proceedings when both the parties have compromised with each other and have been living peacefully would disrupt their lives and cause irreparable harm to the minor children which will further destabilize the family, creating an environment of uncertainty and distress and would also negatively impact the development of the children and their future prospects. He submitted that when, in a given case, children are born out of the wedlock, the Courts should adopt a pragmatic and compassionate approach because the pendency of criminal prosecution will hamper the upbringing of the children. He also submitted that the inherent powers of the High Court under Section 482 Cr.P.C. and 528 of BNSS, 2023 are aimed at ensuring justice and preventing misuse of legal process and when a dispute involves a matrimonial dispute or a family dispute, then for the purpose of preservation of harmony in the family, continuation of criminal proceedings should not be permitted.

8. Learned counsel relied upon a Full Bench judgment of this Court in *Kulwinder Singh versus State of Punjab, 2007(3) RCR Criminal 1052* to contend that there is no exhaustive list for the purpose of enabling



the High Court to invoke its inherent powers for the purpose of quashing of FIR based upon compromise and that the powers under Section 482 Cr.P.C. are unlimited, although the power is to be exercised sparingly and with utmost care and caution depending upon the facts and circumstances of each and every case. He also referred to a judgment of this Court in ***Rizwan Saifi Versus State of Punjab and another, 2017(1) Law Herald 770.***

9. Learned counsel for the petitioner has further referred to a judgment of Hon'ble Supreme Court in ***K. Dhandapani Versus State by Inspector of Police, 2022(2) RCR (Criminal) 987***, another judgment of this Court in ***Devender Nath Versus State of U.T Chandigarh and others, 2024 SCC Online P&H 2034, Vicky Versus State of Haryana, 2024 (3) Law Herald 2026 and Parampreet Singh @ Harry Versus State of Punjab and others, CRM-M-35578-2020, decided on 21.03.2022.*** Thereafter, he also referred to a recent judgment of Hon'ble Supreme Court in ***Shri Ram Urav Versus State of Chattisgarh, Criminal Appeal No.41/2021, decided on 30.01.2025*** and submitted that there is no bar for quashing of the FIR even in rape cases based upon compromise and therefore, the aforesaid FIR may be quashed based upon compromise and in the interest of justice.

**Submissions made by learned  
State counsel**

10. On the other hand, Mr. Surinder Kumar Dagar, learned Deputy Advocate, Haryana has opposed the quashing of the FIR in the present case based upon compromise. While making his submissions, he also referred to the reply filed by the Assistant Commissioner of Police, Sadar Gurugram on behalf of the State of Haryana and submitted that in the present case, the petitioner is facing trial for serious and heinous offence which is also non-compoundable. He submitted that when the FIR was lodged on 30.08.2013,



the same was lodged under the provisions of Sections 363, 366-A and 34 of IPC and later on offences under Section 376 of IPC and Section 4 of POCSO Act were added during the course of investigation. He submitted that respondent No.3-victim was a minor at the time of occurrence of the age of only 13 years. While referring to the reply, he submitted that on 11.11.2013, the petitioner was apprehended from Village Bokane, Police Station Patai, District Motihari, Bihar and the minor victim was also recovered from the custody of the petitioner. The petitioner was produced before the learned Judicial Magistrate First Class, Motihari and his transit remand was obtained and the minor victim was also brought back to Gurugram. The matter was further investigated and the victim girl child was also subjected to medico-legal examination. Her statement was also recorded under Section 161 Cr.P.C. and accordingly, offences under Section 376 of IPC and Section 4 of POCSO Act were added and the biological samples collected were sent for forensic analysis. Thereafter, the statement of victim was also got recorded under Section 164 Cr.P.C. before the learned Magistrate and her custody was handed over to her parents. So far as the involvement of the other co-accused is concerned, their complicity was not found in the act of enticing and kidnapping the minor child and therefore, the other co-accused were not challaned by the Investigating Agency.

11. Learned State counsel further submitted that consequent upon completion of the investigation, final report under Section 173(2) Cr.P.C. was filed before the learned competent Court on 26.12.2013 qua the present petitioner for commission of offences punishable under Sections 363, 366-A, 376 of IPC and Section 4 and 12 of POCSO Act. The petitioner was thereafter charge-sheeted by the learned trial Court on 16.05.2014 and now



the case is fixed for defence evidence, if any, and for arguments. While further referring to the reply filed on behalf of the State of Haryana, he submitted that when the petitioner was granted the concession of regular bail during the course of trial, he misused the concession so granted and absented himself from the proceedings before the learned trial Court and thereafter, proceedings under Section 82 Cr.P.C. were resorted to and ultimately, the petitioner was declared as a proclaimed person vide order dated 19.12.2014. Thereafter, the petitioner was apprehended by the police on 21.12.2023 from Amritsar after a long gap of 9 years after having been declared as a proclaimed person by the learned trial Court.

10. Learned Deputy Advocate General further submitted that the petitioner was also found to be involved in the commission of a similar offence against the same victim i.e. respondent No.3, in which FIR No.419 dated 06.06.2014 was registered at Police Station Sadar, Gurugram for the commission of offences punishable under Sections 363, 366-A of IPC and Section 4 of POCSO Act and in that case also, the petitioner was arrested on 30.11.2014 and the matter is still under investigation. He submitted that subsequent FIR was registered against the same petitioner pertaining to a similar offence against the same victim which would show that there was no compromise between the parties at that point of time and that he repeated the offence with the same victim. He also submitted that the compromise relied upon by the petitioner was recently entered into on 03.06.2024 as per Annexure P-2, which was not even entered into by the petitioner himself but through his brother and therefore, the same has no sanctity in the eyes of law. He submitted that the petitioner had enticed away and kidnapped a minor girl of the age of 13 years and was apprehended from Village Bokane,



District Motihari, Bihar after a gap of more than 4 months and he ravished the victim girl child while she was held in captivity by him and repeated the same offence against the same victim as aforesaid.

12. Learned Deputy Advocate General further submitted that so far as the compromise arrived at between the parties in the year 2024 (Annexure P-2) is concerned, the same cannot come to the aid of the petitioner considering the aforesaid facts and circumstances of the present case and also in view of the fact that the law in this regard as to whether in such like cases involving the offence of rape and particularly when the provisions of the POCSO Act are involved, the FIR cannot be quashed based upon compromise. In this regard, he referred to a judgment of Hon'ble Supreme Court in *Ramji Lal Bairwa and others Versus State of Rajasthan and others, Criminal Appeal No.3403 of 2023, decided on 07.11.2024* and submitted that it is a settled law that in such like offences there can be no quashing of FIR based upon compromise and therefore, the present petition is liable to be dismissed being fully covered by the aforesaid judgment of Hon'ble Supreme Court. He also submitted on instructions that at the time of trial, respondent No.3-victim had rather supported the prosecution version and trial is at the fag end as is fixed for defence evidence, if any or for arguments.

**Submissions made by learned counsel for  
respondents No.2 and 3**

13. Mr. Shivam Sharma, learned counsel appearing on behalf of respondents No.2 and 3, who are the complainant and the victim respectively submitted that respondents No.2 and 3 have filed separate replies by way of affidavits before this Court. He referred to the reply filed by the complainant dated 17.03.2025, wherein it has been stated by him that the FIR was



registered on the complaint of the complainant due to alleged abduction of his minor daughter who was 13 years old at the time of incident. However, over the years, the circumstances have drastically changed and rigid application of law in this case would lead to severe injustice rather than serving the purpose of justice and that the victim and the petitioner are now legally wedded and have four children born out of the said wedlock. The victim, now a mother, is facing extreme hardship as the sole caretaker of the minor children while her husband is behind the bars leaving the family in distress and financial turmoil. While further referring to the reply filed by the complainant, he submitted that the children, who have no role in the past allegations, are now facing an uncertain future with their father in jail and their mother struggling to provide necessities to them and that now since the petitioner and the victim have willingly and voluntarily entered into a compromise with each other without any coercion or pressure, a prayer was made to allow her to live peacefully with her husband and provide necessities to her children.

14. He also referred to reply by way of an affidavit filed by respondent No.3-victim, wherein she also stated that she had been living with the petitioner as his legally wedded wife for several years and they have four children from their marriage and over time, their relationship has grown and they have built a family together overcoming various challenges and that the victim being a wife and mother is now facing immense emotional, financial and societal hardship due to incarceration of her husband and the absence of the father of the children is causing extreme distress to the family and depriving the children of a stable and nurturing environment. While further referring to the reply, he submitted that with the passage of time, the



victim has accepted her marital life with the petitioner and is now struggling to protect her family from disintegration and therefore, the continuation of criminal proceedings against her husband will serve no purpose other than adding to the family's miseries. While further referring to the reply, he submitted that a sympathetic and humane approach may be taken and the present FIR may be quashed for the well-being of the victim and her children.

**Submissions made by learned**  
**Amicus Curiae**

15. Mr. Ashish Bansal, Advocate was appointed as *Amicus Curiae* by this Court vide order dated 03.02.2025 to assist this Court on the proposition of law pertaining to the quashing of FIR based upon compromise in such like matters. He submitted that although it has been stated by the victim and the complainant that after the occurrence in the year 2013, the petitioner and the victim have married with each other and four children have been born out of the wedlock but at the same time the criminal trial is at the fag end and as per the State, it is now fixed for defence evidence, if any, or for arguments. He further submitted that as per the learned State counsel, initially the victim had supported the prosecution version before the learned trial Court.

16. While addressing arguments, the learned *Amicus Curiae* submitted that on this issue of law pertaining to the quashing of FIRs based upon compromise in rape and POCSO matters not only the law settled by Hon'ble Supreme Court is required to be considered but also the recent tendency to file petitions seeking to invoke extraordinary jurisdiction of High Court for quashing of FIR in such like cases should also be considered. He submitted that there is no dispute with regard to the proposition that the



offence of rape is not only serious but also a heinous offence and it cannot be considered to be a private offence since it affects the society and the public at large. In case the society accepts the culture of compromise for such heinous and serious offences by seeking validation from the Constitutional Courts, then it will increase the tendency of non-reporting of crimes, which will be far more harmful for the safety of people. The reporting/disclosing of the offence of rape is a very difficult exercise for a victim and her family which may eventually be reduced if there is a validation of compromise in such like matters. He further submitted that in fact acceptance of compromise in offences like rape with children will lead to increase in child marriages and the parents may force the victim and the accused to get married to avoid burden of marriage prospects for the victim girl and to avoid reporting/investigation process and other consequences which will be detrimental to the society at large. He submitted that in the present case, the victim was of the age of 13 years at the time of alleged incident and did not understand anything being of a tender age. In fact, from the age of 13, the phase of teen age starts and slowly a teenager starts understanding each and everything based upon exposure towards society and upbringing but at the tender age of 13 years, it cannot be said that the victim has any mature understanding. There is a remarkable difference between the age of 13 years and the age of more than 13 years in terms of the level of understanding and maturity for a minor child. Marriage of a victim with the accused will also deprive the victim's right to make an informed choice about marriage. In fact, it is by compulsion from both the sides i.e. from the parent's side to avoid any societal pressures and from the accused side to evade criminal prosecution with a result that the victim girl remains with no



alternative but to marry the accused which is again detrimental to the societal set up and detrimental to her own right to get married by her own choice.

17. Mr. Bansal further submitted that the Courts and the State are also to protect and understand the rights of the minors by performing the role as *parens patriae* and such kind of compromise deeds which have been relied upon by the petitioner will act as a loophole in the justice system and would rather be an abuse of the Justice Delivery System. Benevolent acceptability of marriages in rape prosecutions needs to be dealt with an iron hand especially in view of the law laid down by Hon'ble Supreme Court in numerous judgments.

18. He further submitted that even a perusal of the compromise deed attached along with the present petition as Annexure P-2 would show that the compromise has been entered into by the brother of the petitioner and not by the petitioner himself, even though he is in judicial custody. The compromise was affected at a very late stage when the evidence was complete and it may have been entered into in order to avoid punishment, if any. The brother of the petitioner, victim and the complainant have entered into a compromise as per Annexure P-2 although the offence is a serious and heinous offence against the State and against the society at large and therefore, on this ground as well such kind of compromises cannot be given any effect and are not enforceable being opposed to public policy.

19. Mr. Bansal referred to a number of judgments in support of his submissions. He referred to the judgments of Hon'ble Supreme Court in *Shimbu Versus State of Haryana, 2014(13) SCC 318, State of Madhya Pradesh Versus Madan Lal, 2015(7) SCC 681, State of Madhya Pradesh*



*Vs. Laxmi Narayan and Others 2019 (2) SCC (Crl.) 706,, K. Dhandapani Versus State, by The Inspector of Police, 2022(2) RCR (Criminal) 987, Re: Right to Privacy of Adolescents matter, Suo Motu Writ Petition No.3 of 2023, decided on 20.08.2024, Ramji Lal Bairwa and others Versus State of Rajasthan and others, Criminal Appeal No.3403 of 2023, decided on 07.11.2024 and Shri Ram Urav Versus State of Chattisgarh, Criminal Appeal No.41/2021, decided on 30.01.2025.* He also referred to two judgments of this Court in *Devender Nath Versus State of U.T Chandigarh and others, 2024 SCC Online P&H 2034* and *Earndeeep Kaur @Irandeep Kaur and another Versus State of Punjab and another, CRM-M-13795-2024*. He submitted that considering the law laid down by Hon'ble Supreme Court in the aforesaid judgments, there cannot be quashing of FIR based upon compromise when the offence involved is the offence of rape and POCSO Act.

**Analysis of the arguments raised by learned  
counsels for the parties**

20. Various theories of punishment have been resorted to at different phases of evolution of Legal System. This signifies that as societies and their legal frameworks developed over time, different philosophies pertaining to the purpose and method of punishing offenders have evolved.

21. One such theory which is recognised in established principles of criminal jurisprudence is the Deterrent Theory of Punishment and is founded upon the doctrine that punishment is not solely imposed for the commission of a wrongful act already perpetrated, but also serves as a cautionary mechanism which is aimed at preventing the commission of similar offences in the future, either by the offender himself or by members of society at large. In other words, the deterrent theory of punishment aims to



'deter' the criminals from attempting any crime or repeating the same in future by creating fear amongst individuals and also to establish an example for others or the society at large by punishing the criminal. This theory is utilitarian in nature based upon the objective that a man is punished not only for the wrongful act that he has committed but also to ensure that the crime may not be committed again. This theory becomes more effective when the punishment is swift, certain and severe and therefore, it consists of three components, namely, severity, certainty and celerity. The element of deterrence is also divided into three different categories, namely, general deterrence, specific deterrence and incapacitation. The Deterrent Theory is supported by the school of thought that if the legal system of a State shows undue sympathy in imposing inadequate or no sentence, then it is felt that such a system would be doing more harm than good to the Criminal Justice System, thereby undermining the confidence of general public in terms of efficacy of law. A derivative of the Deterrent Theory also pertains to proportionality of punishment, which is recognized by the Indian Legal System i.e. punishments should be proportionate to the nature and gravity of the offence for which the punishment is prescribed. In this way, the primary objective of this theory is to set an example through punishment, thereby dissuading others from indulging in criminal activities.

22. The Indian Legal System has consistently reaffirmed that punishment serves not merely retributive objectives but also functions as an imperative tool for deterrence, particularly in cases involving heinous and serious offences. In *State of Madhya Pradesh v. Munna Choubey & Ors.*, **2005 (2) SCC 710**, the Hon'ble Supreme Court observed that the imposition of punishment must take into account its broader impact on social order,



especially in offences undermining the security of individuals and the fabric of society. Similarly, in *State of Madhya Pradesh v. Sheikh Shahid, 2009 (12) SCC 715*, the Court reiterated that the primary objective of criminal law is the protection of societal interests and the prevention of lawlessness.

In this way, it is well-settled that punishment must serve the objective of deterrence and societal protection, while ensuring adherence to the constitutional mandate of proportionality and the broader principles of justice.

23. The present is a case whereby allegations are pertaining to offence of rape and the victim at the time of the offence was stated to be of the age of 13 years. Allegedly the victim was enticed away by the petitioner and she stayed with the petitioner in the State of Bihar and was recovered after four months by the police from the custody of the petitioner. The offences involved in the present case are Sections 363, 366-A, 376, 34 IPC and Sections 4 and 12 of POCSO Act. Therefore, it will be necessary to consider the law on the subject as laid down by Hon'ble Supreme Court and also referred to by the learned counsels appearing for the parties and the learned *Amicus Curiae*.

24. In *Shimbu's case (Supra)*, it was observed by Hon'ble Supreme Court that law on the issue can be summarised to the effect that punishment should always be proportionate/commensurate to the gravity of offence. Religion, race, caste, economic or social status of the accused or the victim or the long pendency of the criminal trial or offer of the rapist to marry the victim or the victim is married and settled in life cannot be construed as special factors for reducing the sentence prescribed by the



statute. Paras No.19 and 20 of the aforesaid judgment are reproduced as under:-

*“19. Thus, the law on the issue can be summarised to the effect that punishment should always be proportionate/commensurate to the gravity of offence. Religion, race, caste, economic or social status of the accused or the victim or the long pendency of the criminal trial or offer of the rapist to marry the victim or the victim is married and settled in life cannot be construed as special factors for reducing the sentence prescribed by the statute. The power under the proviso should not be used indiscriminately in a routine, casual and cavalier manner for the reason that an exception clause requires strict interpretation.*

*20. Further, a compromise entered into between the parties cannot be construed as a leading factor based on which lesser punishment can be awarded. Rape is a non-compoundable offence and it is an offence against the society and is not a matter to be left for the parties to compromise and settle. Since the court cannot always be assured that the consent given by the victim in compromising the case is a genuine consent, there is every chance that she might have been pressurised by the convicts or the trauma undergone by her all the years might have compelled her to opt for a compromise. In fact, accepting this proposition will put an additional burden on the victim. The accused may use all his influence to pressurise her for a compromise. So, in the interest of justice and to avoid unnecessary pressure/harassment to the victim, it would not be safe in considering the compromise arrived at between the parties in rape cases to be a ground for the court to exercise the discretionary power under the proviso of Section 376(2) IPC”.*

25. In **Madan Lal's case (Supra)**, Hon'ble Supreme Court while referring to the aforesaid judgment in **Shimbu's case (Supra)** observed that in a case of rape or attempt to rape, the conception of compromise



under no circumstances can really be thought of. These are the offences against the body of a woman which is her own temple. These are the offences which suffocate the breath of life and sully the reputation and reputation, needless to emphasise is the richest jewel one can conceive of in life and no one can be allowed to extinguish the same. It was further observed that when a human frame is defiled, the “purest treasure” is lost and dignity of a woman is a part of her non-perishable and immortal and no one should ever think of painting it in clay. There cannot be a compromise or settlement as it would be against her honour which matters the most and is sacrosanct. Para No.18 of the aforesaid judgment is reproduced as under:-

*“18. The aforesaid view was expressed while dealing with the imposition of sentence. We would like to clearly state that in a case of rape or attempt to rape, the conception of compromise under no circumstances can really be thought of. These are crimes against the body of a woman which is her own temple. These are the offences which suffocate the breath of life and sully the reputation. And reputation, needless to emphasise, is the richest jewel one can conceive of in life. No one would allow it to be extinguished. When a human frame is defiled, the "purest treasure", is lost. Dignity of a woman is a part of her non-perishable and immortal self and no one should ever think of painting it in clay. There cannot be a compromise or settlement as it would be against her honour which matters the most. It is sacrosanct. Sometimes solace is given that the perpetrator of the crime has acceded to enter into wedlock with her which is nothing but putting pressure in an adroit manner; and we say with emphasis that the courts are to remain absolutely away from this subterfuge to adopt a soft approach to the case, for any kind of liberal approach has to be put in the compartment of spectacular error”.*



26. In *Laxmi Narayan's case (Supra)*, Hon'ble Supreme Court while referring to the earlier decisions of the Supreme Court on the issue observed and held with regard to power under Section 482 of the Code of Criminal Procedure for quashing of the criminal proceedings in non-compoundable offences that such power is not to be exercised in those prosecutions involving heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. Such offences are not private in nature and have a serious impact on society. It was further observed that while exercising the aforesaid power under Section 482 of the Code of Criminal Procedure, the High Court is required to consider the antecedents of the accused, the conduct of the accused, namely, whether the accused was absconding and why he was absconding and how he had managed with the complainant to enter into a compromise etc. Para No.15 of the aforesaid judgment is reproduced as under:-

*“15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:*

*i) that the power conferred under section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;*

*ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder,*



*rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;*

*iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;*

*iv) offences under section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the*



*decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove; v) while exercising the power under section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”.*

27. In ***K. Dhandapani's case (Supra)***, Hon'ble Supreme Court set aside the conviction and sentence in view of the peculiar facts and circumstances of that case. The prosecutrix of that case was of the age of 14 years on the date of offence and gave birth to a child when she was 15 years and again when she was 17 years and marriage had also taken place between the parties. The accused was convicted 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 Children from Sexual Offences (POCSO) Act, 2012 by the trial Court which was upheld by the High Court . However, the Hon'ble Supreme Court set aside the conviction based upon peculiar facts and observed that it shall not be treated as a precedent. Para No.8 of the aforesaid judgment is reproduced as under:-

*“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 according, disposed of. Pending Application(s), if any, shall stand disposed of”.*

28. In ***Re: Right to Privacy of Adolescents, Suo motu writ petition (C) No.3 of 2023***, High Court had set aside the conviction under Section 6 of the POCSO Act by acquitting the accused but Hon'ble Supreme Court set aside the judgment of the High Court and held the accused guilty and convicted the accused. In the aforesaid case, the victim-girl was of the age of 14 years and the allegations were pertaining to enticing way the victim by the accused with the help of his two sisters. In addition to the POCSO Act, the provisions of Section 376 IPC and Section 9 of the Prohibition of Child Marriage Act were also invoked. The accused was convicted but the High Court set aside the conviction under Section 6 of the POCSO Act and 376 (2) (n) and (3) of IPC by noting that the mother of the victim had disowned her and therefore the victim was continuously residing with the accused along with her minor child. Hon'ble Supreme Court referred to the provisions of the Juvenile Justice Act, 2015 and observed that there has been non-compliance of the same especially Section 19 (6) of the J.J. Act. It was observed that even the Court must allow the victim to make an informed choice after being informed the details of the support that the State is willing to extend and in this way, various directions were issued by the Hon'ble Supreme Court in this regard.

29. In ***Ramji Lal Bairwa's case (Supra)***, High Court had quashed the FIR on the basis of compromise at the trial stage and thereafter, Hon'ble Supreme Court set aside the judgment of the High Court. Paras No.32 and 33 of the aforesaid judgment are reproduced as under:-



32. *In the decision relied on by the High Court to quash the proceedings viz., Gian Singh's case (supra) and the decision in Laxmi Narayan's case (supra) in unambiguous terms this Court held that the power under Section 482, Cr. P.C., 1973 could not be used to quash proceedings based on compromise if it is in respect of heinous offence which are not private in nature and have a serious impact on the society. When an incident of the aforesaid nature and gravity allegedly occurred in a higher secondary school, that too from a teacher, it cannot be simply described as an offence which is purely private in nature and have no serious impact on the society.*

33. *In view of the reasons as aforesaid and in the light of the decisions referred supra, the impugned order dated 04.02.2022 of the High Court in S.B.C.R.M.P. No.1348/2022, quashing the FIR No.6/2022 dated 08.01.2022 and all further proceedings pursuant thereto solely on the ground that the accused and the complainant had settled the matter, invites interference. We have no hesitation to hold that in cases of this nature, the fact that in view of compromise entered into between the parties, the chance of a conviction is remote and bleak also cannot be a ground to abruptly terminate the investigation, by quashing FIR and all further proceedings pursuant thereto, by invoking the power under Section 482, Cr. P.C. In the said circumstances, this appeal is allowed. The impugned order dated 04.02.2022 of the High Court in S.B.C.R.M.P. No.1348/2022 is hereby quashed and set aside. Consequently, the FIR No.6/2022, investigation and criminal proceedings pursuant thereto subject to the nature of the report to be filed under Section 173(2), Cr. P.C., be proceeded with against the accused, in accordance with law”.*



30. In *Shriram Urav's case (Supra)*, the victim was of the age of 15 years and the accused was proceeded against under Sections 363, 366 and 376 IPC. The prosecutrix and the accused got married with each other and out of the wedlock four children were born. The High Court upheld the conviction and sentence under Sections 366 and 376 IPC and set aside the conviction of the accused under Section 363 IPC. When the aforesaid judgment was assailed before Hon'ble Supreme Court, Hon'ble Supreme Court while exercising its powers under Article 142 of the Constitution of India quashed the conviction as well as sentence since the accused and prosecutrix have married with each other and four children were born out of the wedlock.

31. In *Devender Nath's case (Supra)*, a Co-ordinate Bench of this Court quashed the FIR Under Section 376(2)(n) IPC and Section 6 of POCSO Act on the ground that the prosecutrix and the accused are happily married and that she has also attained the age of majority and wanted to continue with the married life. However, in another judgment in *Earndeep Kaur @ Irandeep Kaur's case*, a Co-ordinate Bench of this Court refused to quash the FIR under Sections 306 and 34 IPC since no compromise could have been arrived at with the surviving family.

32. This Court in *Ranjeet Kaur Versus State of Punjab and others, CRWP No.7785 of 2020, decided on 02.03.2021* while dealing with a petition seeking a writ in the nature of *Habeas Corpus* discussed another important aspect pertaining to child marriages and shortcomings of the same especially in terms of health of a minor girl. This Court referred to the judgment of Hon'ble Supreme Court in *Independent Though Versus Union of India and another, 2017 (10) SCC 800* which dealt with child marriage



and observed that a girl child below the age of 18 years who is sought to be married is a child in need of care and protection and therefore, she is required to be produced before the Child Welfare Committee constituted under Section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015 so that she could be cared for, protected and appropriately rehabilitated or restored to society. A child remains a child whether she is a married child or an unmarried child or a divorced child or a separated child or a widowed child. The age of consent for sexual intercourse is definitely 18 years and there is no dispute about this and therefore under no circumstance can a child below 18 years of age give consent, express or implied for sexual intercourse. It was observed by Hon'ble Supreme Court that the age of consent has not been specifically reduced by any statute and unless there is such a specific reduction, it must proceed on the basis that the age of consent and willingness to sexual intercourse remains at 18 years of age and furthermore, such child marriages certainly cannot be in the best interest of the girl child and the solemnization of a child marriage violates the provisions of the Prohibition of Child Marriage Act, 2006. Hon'ble Supreme Court also discussed the detrimental effects of an early marriage and sexual intercourse at an early age in terms of physical and mental health, nutrition, education and employability. It was observed that Article 21 of the Constitution of India gives a fundamental right to a girl child to live a life of dignity. The Juvenile Justice (Care and Protection of Children) Act, has provided that efforts must be made to ensure the care, protection, appropriate rehabilitation or restoration of a girl child who is at imminent risk of marriage and therefore, a child in need of care and protection and a girl child will be in a worse off situation because after marriage she could



be subjected to aggravated penetrative sexual assault for which she might not be physically, mentally, or psychologically ready and therefore, the intention of the Juvenile Justice Act is to benefit a child rather than place her in difficult circumstances. Therefore, under no circumstance can a child below 18 years of age give consent, express or implied for sexual intercourse.

33. In the aforesaid judgment in ***Ranjeet Kaur's (Supra)***, this Court discussed another important aspect of the matter pertaining to the evil effects of a female child marriage. These evil effects based upon medical science as per World Health Organization report were also discussed. Paras No. 34, 35 and 36 are reproduced as under:-

*“34. There is yet another aspect to this matter. Besides various stringent provisions in the aforesaid legislations which have been discussed above, the evil effects of a female child marriage also deserve attention.*

*35 As per medical science, child marriage has its own evil effects. As per World Health Organization (WHO), Regional Office for Europe, various ill effects of female child marriage have been discussed and the same are reproduced as under:-*

*“The physical health of the female spouse in a child marriage faces several threats. These young girls are often the victims of domestic violence, and they lack the means to advocate for themselves. Additionally, child brides often live with their husband's extended family, which may also be a source of violent abuse, in crowded conditions. Their psychological well being and empowerment also suffer, as young girls in child marriages are denied an appropriate childhood and adolescence, and are subject to an increased incidence of psychological abuse as well as domestic violence; a curbing personal liberty; an incomplete education; and*



*a lack of employment and career prospects – all of which contribute to the cyclical nature of poverty, gender inequality and child marriage. The sexual and reproductive health of the female in a child marriage is likely to be jeopardized, as these young girls are often forced into sexual intercourse with an older male spouse with more sexual experience. The female spouse often lacks the status and the knowledge to negotiate for safe sex and contraceptive practices, increasing the risk of acquiring HIV or other sexually transmitted infections, as well as the probability of pregnancy at an early age. Complications from pregnancy and child bearing are the leading causes of death among girls aged 15-19 years. Often, those in child marriages do not have access to adequate health and contraceptive services, owing to geographic location or the oppressive conditions of their lifestyle.”*

*36 As per abstract contained in Journal: “Child Marriage: A Silent Health and Human Rights Issue,” by Nawal M. Nour M.D. MPH in Department of Maternal-Fetal Medicine, Brigham and Women's Hospital, African Women's Health Centre, Harvard Medical School, Boston, MA, the ill effects are stated as under:-*

*“Marriages in which a child under the age of 18 years is involved occur worldwide, but are mainly seen in South Asia, Africa and Latin America. A human rights violation, child marriage directly impacts girls' education, health, psychologic well being, and the health of their offspring. It increases the risk for depression, sexually transmitted infection, cervical cancer, malaria, obstetric fistulas, and maternal mortality. Their offspring are at an increased risk for premature birth and, subsequently, neo natal or infant death. The tradition, drive by poverty, is perpetuated to ensure girls' financial futures and to reinforce social*



*ties. One of the most effective methods of reducing child marriage and its health consequences is mandating that girls stay in school.”*

#### **POCSO: Legislative Intent**

34. The rationale behind fixing the age of marriage and consent for sexual activity to a fixed statutory minimum is based upon the recognition that minors lack the requisite mental maturity and psychological competence to give informed consent to sexual acts. This position emanates from a protectionist objective, whereby the law operates on the presumption that minors lack the capacity to fully apprehend or appreciate the nature, implications and potential consequences of indulging in sexual activities. In fact the competence of minors to consent is inherently ambiguous, even in circumstances where such consent appears to be given freely. It must be clearly understood that the potential for manipulation or exerting undue influence by adults through various methods and multiple reasons occupying positions of trust, authority, or such a responsibility further enhances this concern by rendering the minor's ostensible consent to be suspicious in law. The law recognises the inherent power imbalance and disparity in competence between minors and adults, which may facilitate exploitative or abusive relationships. The law provides ex-ante protection to minors by criminalising sexual activities involving persons below eighteen years of age, who by virtue of their age are deemed to be legally incapable of giving an informed consent. In this way, the POCSO Act has adopted the “bright-line rule” which is based upon the principle that minors do not possess the legal or developmental capacity to give informed consent in matters of sexual activity, and reflects a clear and consistent legislative intent to create



an unambiguous zone of protection for minors from sexual exploitation. These legislative objectives are grounded in legitimate concerns for the protection of minors from exploitation and therefore, the Courts while considering compromise in such like cases should consider the same in the background of the aforesaid legislative intent.

35. The arguments raised by the learned counsel for the parties from different perspectives can be well understood and considered by way of drawing a comparative analysis of the arguments made in favour and against the issue of quashing of FIR based upon compromise in the facts and circumstances of the present case are as follows:-

<b>Aspect</b>	<b>Favour</b>	<b>Against</b>
<b>Victim Welfare</b>	Marriage and continued cohabitation with the accused reflects ongoing consent of the victim and her expressed desire to avoid adversarial proceedings.	The consent of minor is no consent in the eyes of law and compromise in such cases may perpetuate psychological harm, impede justice and elevate societal pressure above the victim's welfare.
<b>Applicability of Law</b>	Quashing of the FIR based upon compromise subsequent to marriage between the parties may be considered to prevent protracted litigation in exceptional circumstances.	Offences under the POCSO Act are statutory crimes against society and marriage with the victim, especially where she is a minor, cannot absolve the accused of criminal liability. Permitting compromise quashing would undermine the object and intent of the legislation.
<b>Societal Impact</b>	Such Compromise may facilitate future welfare of the family and social reintegration.	Normalizing such compromise undermines the deterrent effect of POCSO Act and sends a regressive message that child sexual abuse can be legitimized



		via subsequent marriage and erodes public confidence in child protection laws.
<b>Best Interest of Children born out of such wedlock</b>	Further prosecution of the accused might have detrimental impact on the well being of the four children of the accused and the victim.	Where a conflict arises between a protective legislative mandate, societal interest, public policy and social confidence on the one hand and an individual case on the other hand, the former will prevail over the latter being dominant factor while latter is subservient to it.
<b>Impact on Health</b>	-	Detrimental for both physiological and psychological health of the victim. The victim being a minor in such cases is subjected to physical injuries of grave nature, complicated pregnancy, mental health issues, psychological stress, social consequences, exploitation and future sexual abuse.

After comparing the aforesaid aspects from multiple angles and having due regard to the alarming rise of such like cases, this court is of the considered view that reasoning mentioned under the head of “against” quashing of FIR on the basis of compromise shall outweigh and prevail over reasoning mentioned under the head of “favour”.

**Conclusion:-**

36. After considering the law laid by Hon’ble Supreme Court, submissions made by the learned counsels for the parties and jurisprudential aspects, it is held that although under Section 482 Cr.P.C (Section 528 of BNSS, 2023), the High Court has wide inherent powers which can be



exercised to prevent miscarriage of justice in case of abuse of process of law and to secure the ends of justice, however the present issue being domain specific where the allegations are pertaining to the offence of rape committed upon a minor girl attracting the provisions of POSCO Act, FIR and its consequential proceedings cannot be quashed based upon compromise while exercising jurisdiction under Section 482 Cr.P.C (Section 528 of BNSS, 2023). It is further held that such kind of compromises are unenforceable in law being illegal and also contrary to public policy.

37. In the present case, the FIR was lodged on 13.08.2013 under Sections under Sections 363, 366-A and 34 IPC and later on offences under Sections 376 IPC and Sections 4 and 12 of POCSO Act were added. The victim-respondent No.3 was minor of the age of 13 years at that time. As per the reply filed by the State, the petitioner was apprehended from Bihar along with the minor-victim who was recovered from the custody of the petitioner. The petitioner was granted the concession of regular bail during the course of trial but he misused the concession of bail and thereafter, he was declared as a proclaimed person on 19.12.2014 and was thereafter again apprehended by the police on 21.12.2023 from Amritsar after a long gap of 9 years after having been declared as a proclaimed person by the learned trial Court. After the petitioner was charge-sheeted by the learned trial Court on 16.05.2014, another FIR was registered against him vide FIR No.419 dated 06.06.2014 for commission of offences punishable under Sections 363, 366A IPC and Section 4 of POSCO Act pertaining to the same victim i.e. respondent No.3 which is stated to be still under investigation. The trial of the case is stated to be at the fag end and is fixed for defence evidence, if any, or for arguments and as per the State counsel, during the course of trial, respondent No.3/victim had supported the prosecution version.



38. Therefore, considering the aforesaid facts and circumstances of the present case and the conclusion drawn by this Court pertaining to issue of law in the preceding paras, the present petition deserves to be dismissed.

39. Consequently, the present petition is dismissed.

40. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case pending before learned trial Court and is meant for the purpose of deciding the present petition only.

41. Before parting with this judgment, this Court records its appreciation towards Mr. Ashish Bansal, Advocate, learned *Amicus Curiae*, Ms. Shreya Singh and Ms. Surpreet Kaur, Law Researchers of this Court for their valuable assistance.

29.07.2025

(JASGURPREET SINGH PURI)

*rakesh*

JUDGE

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No