IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

MISC. CRIMINAL CASE No. 44263 of 2023

CNR No.: MPHC010587392023

CHAND SINGH PAHALWAN AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Sanjay Agrawal - Senior Advocate with Ms. Arti Dwivedi - Advocate for the petitioners.

Shri Yogesh Dhande - Government Advocate for the respondent No.1/State.

Shri Vijay Kumar Pandey - Advocate for the respondent No.2.

WITH

MISC. CRIMINAL CASE No. 45021 of 2023

CNR No.: MPHC010602992023

ROCKY JAAT AND ANR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Sanjay Agrawal - Senior Advocate with Ms. Arti Dwivedi - Advocate for the petitioners.

Shri Yogesh Dhande - Government Advocate for the respondent No.1/State.

MISC. CRIMINAL CASE No. 45068 of 2023

CNR No.: MPHC010606812023

SMT. SUMAN SINGH AND OTHERS

Versus

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THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Sanjay Agrawal - Senior Advocate with Ms. Arti Dwivedi - Advocate for the petitioners.

Shri Yogesh Dhande - Government Advocate for the respondent No.1/State.

MISC. CRIMINAL CASE No. 3245 of 2024

CNR No.: MPHC010042402024

NAVEEN NAARA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Sanjay Agrawal - Senior Advocate with Ms. Arti Dwivedi - Advocate for the petitioners.

Shri Yogesh Dhande - Government Advocate for the respondent No.1/State.

Reserved on : 20.08.2026

Pronounced on : 04.11.2026

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ORDER

I.A. No.18690/2026 filed in MCRC.No.44263/2023 for change in counsel is taken up.

2. For the reasons mentioned therein, said I.A. is allowed.

3. New counsel is permitted to appear and argue the matter on behalf of respondent No.2/victim.

4. Since M.Cr.C. No.44263/2023 (Chand Singh Pahalwan & Ors. Vs. State of M.P. & Anr.), MCRC. No.45021/2023 (Rocky Jaat & Ors. vs. State of M.P. & Ors.), MCRC. No.45068/2023 (Smt. Suman Singh & Ors. Vs.

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State of M.P. & Ors.) and MCRC. No.3245/2024 (Naveen Nara vs. State of M.P. & Ors.) arise out of the same Crime No.176/2022 registered at P.S. Shyamla Hills, District Bhopal (M.P.) for the offences under Section 363, 366, 366-A, 376(2)(n), 109, 120-B, 368 of IPC and Section 5(i), 6, 16, 17 of POCSO Act, involve substantially identical facts, common questions of law and challenge the continuation of the same criminal proceedings as well as order of framing charges dated 28.08.2023 passed in Special ST. No.76/2023 by 19th Additional Sessions Judge/Special Judge, POCSO Act, District Bhopal, all the matters were heard analogously and are being decided by this common order to avoid conflicting findings.

5. It is submitted by learned senior counsel for the petitioners that the incident has occurred on 09.11.2022. The first statement of victim was recorded under Section 161 of Cr.P.C. on 11.12.2022 and in that statement the victim has not levelled any allegation against the petitioners. In the said statement, the victim has stated that she went on her own will and married with Naveen Nara. It is further submitted that on 12.12.2022, the statement of victim was recorded under Section 164 of Cr.P.C. before J.M.F.C. Bhopal in which also she has not stated anything against the petitioners. In that entire period, the victim lived with her parents and even then she has not stated against the petitioners regarding alleged offence. On 12.02.2023, her supplementary statement under Section 161 of Cr.P.C. was recorded by the police and in that statement also, she has levelled some allegation against co-accused Ravi Chahar @ Tinku, but she has not made any allegation against present petitioners. It is further submitted that after approximate six months,

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the supplementary statements of victim were recorded on 03.05.2023 and 22.05.2023 under Section 161 and 164 of Cr.P.C. respectively. Even in those statements, it is clear that the victim has married with co-accused Naveen Nara. It is further submitted that parents of victim have pressurized the victim to give another statement against the petitioners and other accused persons. It is also submitted that victim was well known that petitioner/accused Naveen Nara is already married, therefore he has converted his religion to Muslim religion because without the conversion of the religion, he cannot perform second marriage with the victim. Thereafter, the marriage was performed between them on 13.11.2022. It is further submitted that in the supplementary statements of victim, all the facts have been narrated by the victim under the pressure of her parents. The statement is unnatural that on every day and night she has been given intoxicant substance by the petitioners. It is further submitted that photographs (Annexure A/2) have been filed, which shows that there was cordial relations between petitioner/accused Naveen Nara and the victim. It is also submitted that petitioner/accused Naveen Nara and victim have filed joint petition before the High Court of Punjab & Haryana CRWP. No.10853/2022 in which father, mother and brother of victim have been made party respondents. In that petition, it was prayed that:-

> *(i) issue a writ in the nature of mandamus directing the Official respondents no.2 and 3 for protection of life and liberty of the petitioners and not to interfere in the peaceful life of the petitioners at the behest of respondents Nos.4 to 6 and other relatives.*
>
> *(ii) with a further prayer for the issuance of a writ in the nature of*

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mandamus to issue an appropriate direction to the official respondents to ensure the security of life and liberty of the petitioners which is at the eminent danger at the hands of respondents No.4 to 6 and other relatives And with a further prayer for the issuance of a direction to the official respondents not to harass the petitioners at the instance of any complaint filed by the respondents No.4 to 6 and other relatives.

iii) To issue any other writ, order or direction in favour of the petitioners keeping in view of the facts and circumstances of this case.

(iv) To dispense with filing of certified as well as true typed copies of the annexures.

(v) Advance copy of the writ petition to the respondents may kindly be dispensed with.

6. It is further submitted that the said petition was withdrawn on 03.03.2023 with liberty to file a fresh petition in case of appreciation as regards security. It is further submitted that he has filed birth certificate of victim in which date of birth is mentioned as 11.01.2007.

7. It is further submitted by learned senior counsel that applicant No.3 in MCRC. No.44263/2023 is the government teacher. The appointment order dated 25.06.2020 (Annexure P/7) has been issued by Haryana Government Education Department, Chandigarh. It is also submitted that the applicant No.1 & 2 & 4 in MCRC. No.44263/2023 have been granted anticipatory bail by Coordinate Bench of this Court by order dated 23.06.2023 passed in MCRC. No.24550/2023 (Annexure A/8) & order dated 20.06.2023 passed in MCRC. No.24355/2023 (Annexure A/9) respectively. The applicant No.3 in MCRC. No.44263/2023 was granted regular bail by order dated 25.05.2023 by XIV Additional Sessions Judge, District Bhopal (M.P.). It is further

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submitted that in this case, earlier the petitioners have filed WP. No.13558/2023 (Annexure P/15), which was dismissed as withdrawn by order dated 10.08.2023. Thereafter, this petition has been filed. It is also submitted that in this case charges have been framed against the petitioners by concerned Trial Court.

8. It is further submitted that two charge sheets have been filed in this case. The first charge sheet was filed on 12.04.2023 only against co-accused Ravi Chahar and that time, no allegation has been levelled against present petitioners. It is submitted that the statement of victim was recorded under Section 164 of Cr.P.C. after filing of first charge sheet. Thereafter, the supplementary charge sheet was filed on 21.07.2023 against the petitioners on the basis of supplementary statements of victim recorded on 03.05.2023 and 22.05.2023 given under the pressure of parents of victim. It is further submitted that after more than five months of first and second statements of victim recorded on 11.12.2022 and 12.12.2022, supplementary statements of victim were recorded on 03.05.2023 and 22.05.2023 under the pressure and influence of parents of victim. Learned senior counsel further submits that the victim had taken all her original documents with her with the intention of marrying petitioner/accused Naveen Nara. This fact has also been admitted by the victim in Para 12 of her deposition before the Trial Court. It is further submitted that no prima facie case is made out against any of the petitioners. Hence, it is prayed that the entire charge-sheet, as well as the order framing charges against the petitioners in connection with the aforesaid crime, be quashed.

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9. On the other hand, learned counsel for the respondent No.2/victim has submitted that the date of birth of victim is 11.01.2007 and she was minor at the time of incident, therefore her consent is immaterial and it has no evidentiary value. The Maulvi has also stated in his statement that he has neither solemnized the marriage between the petitioner/accused Naveen Nara and victim nor prepared Nikahnama. The Nikahnama and other documents regarding accused persons and victim are forged documents. The victim in her Court statement has also deposed against the petitioners/accused persons. It is further submitted that the accused persons initially manipulated the police authorities and thereafter filed writ petition before Punjab & Haryana High Court against which the complainant has already filed objection. It is submitted that while filing the said petition, the petitioner/accused Naveen Nara falsely stated that he is unmarried, thereby suppressing the material fact that he was already married. Thereafter, said writ petition was withdrawn by the parties, which clearly shows that they have not approached the Punjab & Haryana High Court with clean hands. It is a case of kidnapping and rape. The petitioner/accused Naveen Nara has never converted his religious for solemnizing marriage with the victim. It is further submitted that after making several complaints by the complainant, the case has been registered against the petitioners/accused persons and thereafter charge sheet has been filed against them. The trial has already begun, therefore disputed questions of fact will be decided at the end of trial. Hence, it is prayed for dismissal of the petition.

10. Learned counsel for the State also submitted that the victim was

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below 16 years at the time of incident, therefore she was minor at that time. It is further submitted that after filing of charge sheet, charges have been framed against petitioners/accused persons and the statement of victim has been recorded before the Trial Court in which she has supported the prosecution story. It is further submitted that the stay has been granted in favour of petitioners/accused persons on 12.10.2023 without issuing notice to other side. It is further that the petitioners/accused persons were fully aware that the victim was a minor. Despite having such knowledge, they neither restrained nor prevented petitioner/accused Naveen Nara from committing the said act. The trial has already begun, therefore disputed questions of fact will be decided at the end of trial. Hence, it is prayed for dismissal of the petition.

11. Having heard learned counsel for the parties and upon perusal of the case diary, charge-sheet and the impugned order framing charges, this Court finds that at the stage of quashing of criminal proceedings, the Court is required to examine whether the allegations contained in the FIR, charge-sheet and accompanying material, if taken at their face value, disclose commission of a cognizable offence. The Court does not conduct a mini trial nor evaluate the sufficiency of evidence for conviction.

12. Similarly, at the stage of framing of charge, the Court is only required to ascertain whether the material placed before it discloses a *prima facie* case or gives rise to a grave suspicion against the petitioners/accused persons. Detailed appreciation of evidence is impermissible at that stage.

<u>As regards petitioners/accused Rocky Jaat and Anurag @ Chintu Rathi</u>

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(MCRC. No.45021/2023)

13. From the perusal of the record, it is found that the date of incident is 09.11.2022. At the time of incident, the age of victim was below 16 years whereas the accused was about 30 years of age, therefore the victim was minor at the time of incident.

14. From the statements of the victim, it appears that the petitioner/accused Naveen Nara was a resident of the State of Haryana whereas the victim was residing at Bhopal (M.P.). On the date of the incident, the petitioner/accused Naveen Nara along with petitioners/accused persons Rocky Jaat, who is cousin brother and Anurag @ Chintu Rathi, who is a friend, of petitioner/accused Naveen Nara came from Haryana to Bhopal in a car and took the victim from Bhopal to Haryana without the consent of her lawful guardians. Thus, the aforesaid circumstances prima facie their involvement in the conspiracy to take away the minor victim from the lawful guardianship of her parents, particularly when they were aware that she was a minor. Furthermore, the victim, in all her statements, has specifically made allegations against petitioners/accused persons Rocky Jaat and Anurag @ Chintu Rathi. Therefore, in the considered opinion of this Court, prima facie material is available on record to connect them with the alleged offence.

As regards petitioner/accused Naveen Nara (MCRC. No.3245/2024)

15. The petitioner/accused Naveen Nara is the main accused, who allegedly hatched the entire conspiracy to take away the minor victim from the lawful guardianship of her parents, despite having knowledge that her age was below 16 years. The date of birth of the victim is 11.01.2007 whereas

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the date of the incident is 09.11.2022. Although it has been argued on behalf of the petitioner that the victim herself went with the petitioner/accused Naveen Nara and had also performed Nikah with him, the fact remains that the victim was below 16 years of age at the time of the incident. Therefore, her consent is immaterial and has no legal significance in the eyes of law.

16. It is also pertinent to mention that, as per the material available on record, the petitioner/accused Naveen Nara was already married and there is no document on record to demonstrate that he had obtained divorce from his previous wife. Further, although it has been contended on behalf of the petitioner/accused that he had converted his religion to Muslim religion and thereafter solemnized Nikah with the victim, the prosecution case reveals that the concerned Maulvi has stated before the police that no such Nikah was solemnized by him. Thus, the aforesaid contention gives rise to a disputed question of fact, which cannot be adjudicated in proceedings under Section 482 of Cr.P.C.

17. The victim has categorically made allegations against petitioner/accused Naveen Nara. Although learned counsel for the petitioner/accused has argued that there are three statements of the victim recorded under Section 161 of Cr.P.C. and two statements recorded under Section 164 of Cr.P.C., containing subsequent improvements and material variations, thereby rendering her statements unreliable, this Court is of the considered opinion that the veracity, credibility and truthfulness of the statements recorded under Sections 161 and 164 of Cr.P.C. cannot be examined in detail while exercising jurisdiction under Section 482 of Cr.P.C.

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Such discrepancies, omissions and improvements are matters to be appreciated during the course of trial. Therefore, in the considered opinion of this Court, sufficient prima facie material is available on record to connect petitioner/accused Naveen Nara with the alleged offence.

As regards petitioner/accused Chand Singh Pahalwan and Ram Pyari (MCRC. No.44263/2023)

18. So far as petitioners/accused persons Chand Singh Pahalwan and Ram Pyari is concerned, upon perusal of the case diary, it is revealed that they are the father and mother of the petitioner/accused Naveen Nara. Although they had not accompanied the petitioner/accused Naveen Nara to Bhopal for taking away the minor victim, the case diary reveals that the petitioner/accused Chand Singh had telephonic conversations with the mother of the victim on 10.12.2022 and with the brother of the victim on 24.12.2022. The transcripts of the aforesaid conversations prima facie indicate that petitioner/accused Chand Singh was aware that the age of the victim was approximately 15 years. Despite having such knowledge, he allegedly concealed the minor victim at his residence by treating her as his daughter-in-law and thereby facilitated the commission of the alleged offence. The petitioner/accused Ram Pyari used to mix an intoxicating substance in the milk served to the victim during the night. There is specific allegations levelled against her. Thus, the aforesaid circumstances prima facie indicate their involvement in the alleged conspiracy and the alleged offence.

As regards petitioner/accused Sonika and Sarika (MCRC.

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No.44263/2023)

19. So far as petitioners/accused Sonika, the unmarried sister and Sarika, the married sister of petitioner/accused Naveen Nara are concerned, no specific allegation of their involvement in the abduction or the alleged conspiracy has been made against them. The only allegation against them is that when the victim was brought to the parental house of petitioner/accused Naveen Nara at Charkhi Dadri, both of them were present there and allegedly threatened her. Except for the aforesaid omnibus allegation, no specific overt act or active role in the abduction or the alleged conspiracy has been attributed to these petitioners/accused persons. Thus, the allegations made against them stand on a different footing from those made against the other petitioners/accused persons. In the absence of any specific allegation or prima facie material indicating their active involvement in the alleged offence, this Court is of the considered opinion that continuation of the criminal proceedings against petitioners/accused persons Sonika and Sarika would not be justified. Accordingly, they are entitled to the benefit of quashing of the proceedings.

20. Accordingly, MCRC. No.44263/2023 is **allowed** as regards petitioner No.3 & 4 Sonika and Sarika in with the direction that entire charge sheet and consequential criminal proceedings relating to Crime No.176/2022 registered at P.S. Shyamla Hills, District Bhopal (M.P.) for the offences under Section 363, 366, 366-A, 376(2)(n), 109, 120-B, 368 of IPC and Section 5(l), 6, 16, 17 of POCSO as well as order of framing charges dated 28.08.2023 passed in Special ST. No.76/2023 by 19th Additional Sessions

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Judge/Special Judge, POCSO Act, District Bhopal are hereby **quashed**.

As regards petitioner/accused Smt. Suman Singh (MCRC. No.45068/2023)

21. So far as petitioner/accused Suman is concerned, she is elder sister of accused Naveen Nara. Although she was not present at the time when the victim was taken away from Bhopal, the case diary reveals that on 09.12.2022, she had a telephonic conversation with the brother of the victim during which she was informed that the victim was a minor girl aged approximately 15 years. Furthermore, the material available on record indicates that she played an active role in facilitating and solemnizing the Nikah between the victim and Naveen Nara, despite having knowledge that her brother Naveen Nara was already married and was aged about 30–31 years whereas the victim was a minor girl aged approximately 15 years. In view of the specific allegations and the material available on record indicating her active involvement in facilitating the alleged marriage, prima facie material exists to connect co-accused Suman with the alleged offence.

As regards petitioner/accused Dharmendra Singh and Ravindra (MCRC. No.45068/2023)

22. So far as petitioners/accused persons Dharmendra and Ravindra are concerned, they are the cousin brothers of main accused Naveen Nara. The victim, in her statements, has specifically named both of them and stated that when accused Naveen Nara brought her from Bhopal, she was kept at the residence of Dharmendra and Ravindra for about 2–3 days, where both of them kept a watch over her. The aforesaid allegations prima facie indicate

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that both these accused persons were aware that the victim was a minor girl who had been taken away from Bhopal by Naveen Nara. Despite having such knowledge, they allegedly provided shelter to the victim and kept a watch over her, thereby facilitating the concealment and sheltering of the minor victim. Thus, specific allegations indicating their active assistance in sheltering the minor victim are available on record. Accordingly, prima facie material exists to connect co-accused Dharmendra and Ravindra with the alleged offence.

23. So far as the fact that the victim in her earlier statement does not mention the name of the petitioners and in the supplementary statement, she mentions or alleges allegations against the present petitioners is concerned, the same does not automatically render the victim's subsequent statement false or unreliable. The reason for variations and the circumstances in which these respective statements were given by the victim and the credibility and truthfulness of the victim are the matters which require appreciation of evidence during the trial.

24. The charge sheet in the present case indicates that the Investigating Agency collected matter suggesting that the petitioners (except petitioner Sonika and Sarika) have also participated in the crime. In the commission of this crime, victim, whose age was below 16 years, was performed marriage with the main accused Naveen Nara. There is also allegation that main accused Naveen Nara has committed rape with the minor girl. The role of the petitioners (except petitioner Sonika and Sarika) is also involved in this case regarding conspiracy and other material, which will be decided during trial.

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25. The criminal conspiracy is generally proved by the circumstantial evidence and cumulative effect of the surrounding circumstances. At this stage, this Court cannot hold that the material collected by the prosecution is wholly insufficient or incapable of establishing the alleged offences.

26. From the perusal of the record, it is found that initially, co-accused Ravi Chahar was arrested and charge sheet was filed against him on 12.04.2023 in which it is mentioned that Ravi @ Tinku has been arrested on 14.02.2023. It is also mentioned in the charge sheet that other co-accused persons Naveen Nara, Rocky Jaat, Anurag @ Chintu Rathi, Ravindra, Dharmendra, Suman are absconding and police is trying to arrest them. The period of 60 days is to be completed, therefore charge sheet is filed against Ravi @ Chintu and investigation against remaining accused persons under Section 173(8) of Cr.P.C. is pending. After the arrest of remaining accused persons and completion of investigation, the charge sheet was filed against them on 21.07.2023.

27. Considering the age of the victim, substantial age difference between the age of the victim and main accused Naveen Nara, the circumstances in which she was taken away from Bhopal to Haryana or other state, the subsequent conduct of the petitioners (except petitioner Sonika and Sarika) and the allegations contained in the subsequent statement of the victim, this Court is of the considered opinion that the matter requires a proper examination of evidence during the trial.

28. A careful perusal of the order of framing charges dated 28.08.2023 passed in Special ST. No.76/2023 by 19th Additional Sessions Judge/Special

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Judge, POCSO Act, District Bhopal further reveals that the learned Trial Court considered the material available in the charge-sheet and recorded satisfaction regarding existence of grounds for presuming commission of offences mentioned in the order of framing charge. The order does not suffer from any jurisdictional error, illegality or perversity warranting interference in revisional jurisdiction.

29. The submissions advanced on behalf of the petitioners essentially require appreciation of disputed questions of fact and evaluation of the evidentiary value of the material collected during investigation. Such exercise falls exclusively within the domain of the trial Court and cannot be undertaken in proceedings under Section 482 Cr.P.C. or while examining the legality of an order framing charge.

30. In view of the aforesaid discussion, this Court is of the considered opinion that the allegations contained in the charge-sheet, coupled with the material collected during investigation, disclose a prima facie case against the remaining petitioners. No ground is made out for quashing the entire charge sheet relating to Crime No.176/2022 registered at P.S. Shyamla Hills, District Bhopal (M.P.) for the offences under Section 363, 366, 366-A, 376(2)(n), 109, 120-B, 368 of IPC and Section 5(l), 6, 16, 17 of POCSO Act or the criminal proceedings arising therefrom. Likewise, the order of framing charges dated 28.08.2023 passed in Special ST. No.76/2023 by 19th Additional Sessions Judge/Special Judge, POCSO Act, District Bhopal does not suffer from any illegality, impropriety or perversity requiring interference in revisional jurisdiction.

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31. Accordingly, MCRC. No.44263/2023 is allowed in regard to petitioner No.3 & 4 Sonika and Sarika and dismissed in regard petitioner No.1 & 2 Chand Singh Pahalwan and Smt. Ram Pyari. MCRC. No.45021/2023, MCRC. No.45068/2023 and MCRC. No.3245/2024 are also dismissed.

32. It is made clear that any observations made herein are only for the purpose of deciding the present petition and shall not be construed as an expression on the merits of the case. The learned Trial Court shall proceed with the matter uninfluenced by any observations made by this Court and shall decide the case strictly in accordance with law.

(PRAMOD KUMAR AGRAWAL)
JUDGE

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