

POCSO CASE AFTER A CONSENSUAL RELATIONSHIP: CAN IT BE QUASHED?

INTRODUCTION

Can criminal proceedings under the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) be brought to an end where the prosecution arises from a relationship which the prosecutrix describes as voluntary, and the parties subsequently continue the relationship or marry after she attains majority? This question is increasingly arising before the Hon'ble Supreme Court and various High Courts.

The short answer is that a consensual relationship or subsequent marriage does not automatically extinguish a POCSO prosecution. At the same time, recent decisions show that constitutional courts have, in exceptional cases, quashed proceedings where the facts demonstrated a longstanding voluntary relationship, the prosecutrix consistently supported the accused, the parties had subsequently married or were living together, and continuation of the prosecution was found to cause greater injustice to the prosecutrix and her family.

The outcome therefore, depends heavily upon the facts of the individual case. The age of the parties, the circumstances in which the FIR was registered, the

statements of the prosecutrix, allegations of force or exploitation, subsequent marriage, children born from the relationship and the stage of the criminal proceedings can all become material.

A. THE BASIC LEGAL POSITION UNDER THE POCSO ACT

The POCSO Act adopts a strict age-based framework. Section 2(d) defines a child as any person below eighteen years of age. Consequently, consent of a person below eighteen does not ordinarily operate as a defence to a sexual offence under the Act.

The Supreme Court in **Independent Thought v. Union of India, (2017) 10 SCC 800** emphasised the statutory protection afforded to a minor girl and recognised bodily integrity and dignity as constitutional values. The legal position therefore, remains clear that neither a claim of consent nor a subsequent marriage can, by itself, retrospectively legalise conduct which constituted an offence when committed.

This distinction is central to any petition for quashing. The question is whether, having regard to the exceptional facts and subsequent circumstances, continuation of the criminal proceedings would serve the ends of justice or amount to an abuse of the process of law.

B. WHY QUASHING IS STILL POSSIBLE IN EXCEPTIONAL CASES

Under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, corresponding to the erstwhile Section 482 CrPC, High Courts retain inherent jurisdiction to prevent abuse of process and secure the ends of justice. The Supreme Court in **Gian Singh v. State of Punjab, (2012) 10 SCC 303** and **Narinder Singh v. State of Punjab, (2014) 6 SCC 466** recognised the width of this jurisdiction while cautioning that heinous offences and offences having a serious societal impact cannot ordinarily be treated as private disputes capable of being terminated merely on compromise.

POCSO offences therefore stand on a different footing from ordinary matrimonial or private disputes. Nevertheless, courts have also encountered cases which arise not from allegations of predatory sexual abuse but from adolescent relationships opposed by families, elopement, pregnancy or a subsequent matrimonial relationship. It is in this narrow category that the recent jurisprudence becomes particularly relevant.

C. THE SUPREME COURT'S APPROACH

1. K. Kirubakaran vs. State of Tamil Nadu, 2025 SCC OnLine SC 2307

In K. Kirubakaran, the appellant had already been convicted under Section 366 IPC and Section 6 of the POCSO

Act. During the pendency of the proceedings, he married the prosecutrix and the couple had a child. The prosecutrix expressed her desire to continue living with the appellant and the Court was informed of the settled family circumstances.

The Supreme Court invoked Article 142 of the Constitution and quashed the criminal proceedings, including the conviction and sentence. Importantly, however, the Court expressly confined the relief to the peculiar circumstances before it and clarified that the order should not be treated as a precedent. The decision therefore demonstrates the availability of extraordinary relief without creating a general rule that marriage cures a POCSO offence.

2. Ayyub Malik v. State of Uttarakhand, 2026 SCC OnLine SC 637

Ayyub Malik is particularly significant because the Supreme Court was considering a challenge to the High Court's refusal to exercise its inherent jurisdiction. The prosecution arose after the girl, stated to be about seventeen years of age, left her parental home. The parties maintained that they were in a relationship, had married of their own choice and continued to live together. The prosecutrix had also stated at an early stage that she had voluntarily accompanied the accused and wished to remain with him. By the time the matter reached the Supreme Court, the parties had been living together for several years and had a child.

The Supreme Court set aside the High Court order and quashed the criminal proceedings. The Court considered that continuation of the prosecution would operate as a painful interference in the lives of parties who were living together peacefully. The judgment is therefore, an important authority where quashing is sought during the pendency of proceedings on the basis of the complete factual history of the relationship and subsequent family circumstances.

3. Mahesh Mukund Patel v. State of Uttar Pradesh, 2025 SCC OnLine SC 614

In Mahesh Mukund Patel, the FIR alleged that the victim was seventeen years old and invoked provisions of the IPC as well as Sections 3 and 4 of the POCSO Act. The parties had subsequently married and had children. The Supreme Court held that the High Court ought to have exercised jurisdiction under Section 482 CrPC rather than directing the parties to approach the Trial Court for recording a settlement, and quashed the FIR and consequential proceedings.

The decision is useful on the scope of the High Court's inherent jurisdiction, though it must be read with the factual circumstance that the marriage documents placed before the Court reflected a date of birth which indicated that the prosecutrix was a major at the relevant time. It is therefore not a substitute for the closer scrutiny required in a case where minority is undisputed.

D. DELHI HIGH COURT DEVELOPS A PRACTICAL FRAMEWORK

1. Harmeet Singh v. State (GNCT of Delhi), 2026 SCC OnLine Del 1707

Harmeet Singh is one of the most practically significant decisions in this area. The Hon'ble High Court of Delhi considered a case involving an accused aged about twenty-two years and a prosecutrix who was approximately seventeen years and two months old. The FIR arose when the prosecutrix went to hospital for delivery. The parties subsequently married, had a child and the prosecutrix consistently supported quashing of the proceedings.

After surveying decisions of the Supreme Court and several High Courts, the Delhi High Court held that quashing of POCSO proceedings is not legally impermissible in every case, but must follow careful and sensitive scrutiny. The Court identified factors which can guide the exercise of jurisdiction in cases where the prosecutrix, despite being a de jure victim under the statute, states that the relationship was voluntary and seeks closure of the proceedings and the said factors are as follows:-

- 1. Voluntary and consistent stand of the prosecutrix:-** Whether the prosecutrix supports quashing of her own free will, without pressure, deception or coercion, and whether her stand has remained consistent over time.
- 2. Nature and duration of the relationship:-** Whether the material

shows a genuinely voluntary relationship rather than grooming, exploitation or a relationship created after registration of the criminal case.

3. **Subsequent family life:-** Whether the parties have lived together as a family for a substantial period and whether children have been born from the relationship whose welfare would be affected by continuation of the proceedings.
4. **Absence of violence or brutality:-** Whether there are allegations, medical material or other evidence indicating force, violence, intimidation or circumstances inconsistent with genuine volition.
5. **Relative age of the parties:-** The respective ages of the accused and the prosecutrix at the relevant time, including whether the prosecutrix was close to majority and whether the age difference itself suggests exploitation.
6. **Best interests of the prosecutrix and children:-** Ultimately, the Court must consider whether quashing would serve the present welfare of the prosecutrix and any children born from the relationship, while remaining faithful to the protective object of POCSO.

2. **Mohd Harul @ Haroon v. State NCT of Delhi, CRL.M.C. 3549/2025, decided on 29 July 2026**

The Delhi High Court subsequently applied the Harmeet Singh framework in Mohd Harul @ Haroon case. The prosecutrix was approximately

seventeen years and five months old and the accused was around nineteen years old. The FIR had been lodged by the prosecutrix's mother after she went missing. When traced, however, the prosecutrix stated under Sections 161 and 164 CrPC that she had voluntarily accompanied the accused and married him.

By the time the quashing petition was considered, the parties had continued to live together and had two children. There was no allegation of violence and the prosecutrix appeared before the Court and supported quashing. Applying Harmeet Singh ratio, the High Court quashed the FIR, charge-sheet and consequential proceedings, including the POCSO charge.

The Hon'ble High Court of Delhi has continued to apply the same line of reasoning in subsequent cases, including where the parties had formally married after the prosecutrix attained majority and were living together with children. These decisions make clear that the factual foundation of the petition, rather than the mere existence of a marriage certificate, remains crucial.

E. APPROACH OF OTHER HIGH COURTS

1. **Vijay Laxman Rotke v. State of Maharashtra, 2026 SCC OnLine Bom 2852**

In the above case, the Hon'ble Bombay High Court relied upon Ayyub Malik and K. Kirubakaran while quashing the FIR, charge-sheet and criminal

proceedings where the prosecutrix had no grievance regarding the relationship, was willingly residing with the accused and was pregnant. The Court noted the absence of an allegation of force and considered the subsequent family circumstances while holding that continuation of the criminal case would not serve the interests of justice.

2. *Shalenbor Wahlang v. State of Meghalaya*, 2026 SCC OnLine Megh 152

In the above matter, a Division Bench of the Hon'ble Meghalaya High Court considered a case in which the parties had married and had a child. The judgment forms part of a broader line of decisions dealing with what are sometimes described as Romeo-Juliet cases. The Court emphasised that such matters require careful verification of the prosecutrix's present stand and surrounding circumstances rather than routine quashing merely because the parties claim to have settled the dispute.

3. *Shekar A.B. v. State of Karnataka*, CRL.P. No. 12357/2025, decided on 19 June 2026

In the above said case, the Hon'ble Karnataka High Court quashed proceedings under Section 376(2)(n) IPC, Sections 6 and 8 of the POCSO Act and provisions of the Prohibition of Child Marriage Act after considering the subsequent marriage, the prosecutrix's affidavit supporting the Accused and the genuineness of the settlement. Significantly, the Court observed that there cannot be an absolute proposition

that proceedings under POCSO are incapable of being quashed in every circumstance.

The Court also imposed an unusual safeguard by observing that if the accused subsequently deserted the prosecutrix, the terminated POCSO proceedings would revive. Whether such a condition would be adopted elsewhere is a separate question, but the decision illustrates the emphasis courts are placing upon the genuine welfare of the prosecutrix rather than upon marriage as a technical defence.

4. Other 2026 decisions considered by the Delhi High Court

In *Harmeet Singh*, the Hon'ble High Court of Delhi also referred to a number of recent decisions in which POCSO proceedings were quashed after considering the peculiar facts of the relationship between the parties. These included *Mohammad Parweej v. State (NCT of Delhi)*, 2026 SCC OnLine Del 1030; *Abhishek v. State of H.P.*, 2026 SCC OnLine HP 2332; *Kundan Lal v. State of H.P.*, 2026 SCC OnLine HP 1743; *Sanju Singh Narwariya v. State of M.P.*, 2026 SCC OnLine MP 2971; and *Prince Raja v. State of U.P.*, 2026 SCC OnLine All 210. While each case necessarily turned on its own facts, the Courts took into account circumstances such as the parties having subsequently married, their continued cohabitation, children having been born from the relationship, and the prosecutrix herself supporting termination of the criminal proceedings. These decisions illustrate that, in appropriate cases, Courts have looked beyond the mere existence of the prosecution and examined whether its continuation would serve any meaningful

purpose or instead cause further prejudice to the prosecutrix and the family that had subsequently come into existence.

F. QUASHING IS NOT AUTOMATIC - COURTS HAVE ALSO REFUSED RELIEF

The decisions granting relief should not be read as creating a general exception to the POCSO Act. There is an equally important line of authority refusing quashing where the age of the prosecutrix, nature of the allegations or surrounding circumstances made judicial intervention inappropriate.

1. Saivan v. State (NCT of Delhi), 2025 SCC OnLine Del 9942

In the above case, the Hon'ble High Court of Delhi declined to quash proceedings despite subsequent marriage where the prosecutrix was stated to be only about thirteen years old at the relevant time. The case illustrates that the younger the child and the greater the concern regarding capacity, influence or exploitation, the weaker a plea based upon subsequent marriage is likely to become.

2. Prasanjeet Mandal @ Denchu v. State NCT of Delhi, CRL.M.C. 8123/2025

In the above case, Hon'ble High Court of Delhi also refused quashing where the prosecutrix was approximately fifteen years old when she allegedly eloped and subsequently gave birth while still a minor. The Court stressed that consent of a minor has no legal relevance under POCSO and that inherent jurisdiction cannot be used

merely to retrospectively legitimise sexual relations with a minor.

These decisions show why a quashing petition must be assessed on its own facts. Subsequent marriage may be a relevant circumstance, but it cannot by itself overcome allegations of exploitation, substantial age disparity, force, grooming, intimidation or a very young prosecutrix.

G. WHAT SHOULD BE EXAMINED BEFORE FILING A QUASHING PETITION?

A petition seeking quashing should therefore be built around the complete factual history of the relationship and the record of the criminal case. Before approaching the High Court, the following aspects ordinarily require careful examination:-

1. **Age documents:-** The exact age of the prosecutrix and the accused at the relevant time, and whether the prosecution's age determination is supported by reliable school, municipal or other statutory records.
2. **FIR and circumstances of registration:-** Whether the complaint was made by the prosecutrix herself, by parents or relatives after elopement, or arose from a hospital or other mandatory reporting mechanism.
3. **Statements during investigation:-** What the prosecutrix stated under Sections 161 and 164 CrPC or the corresponding provisions of the BNSS, and whether her stand has

remained consistent from the beginning.

4. **Allegations of coercion or exploitation:-**

Whether the FIR, medical evidence, forensic material or witness statements disclose force, threats, grooming, abuse of trust, trafficking or violence.

5. **Present status of the relationship:-**

Whether the prosecutrix has attained majority, whether the relationship continues voluntarily, whether the marriage is genuine and registered, and how long the parties have lived together.

6. **Children and present welfare:-**

Whether children have been born from the relationship and what practical consequences continuation of prosecution may have upon the prosecutrix and the children.

7. **Stage of proceedings:-** Whether the matter is at the investigation stage, after filing of the charge-sheet, after framing of charges, during trial, in appeal after conviction, or before the Supreme Court. The appropriate remedy and scope of judicial power may differ at each stage.

The documents placed before the Court can therefore be decisive. Depending upon the case, these may include statements of the prosecutrix, age records, marriage certificate, birth certificates of children, proof of cohabitation and other contemporaneous material demonstrating the nature and continuity of the relationship.

H. CONSENT, MARRIAGE AND QUASHING ARE DIFFERENT LEGAL QUESTIONS

Three distinct questions must not be conflated. The first is whether a minor was legally capable of consenting at the time of the alleged sexual act. The second is whether subsequent marriage retrospectively legalises that act. The third is whether, despite the statutory offence alleged, the High Court should exercise its inherent or constitutional jurisdiction because continuation of the prosecution in the exceptional facts would defeat rather than advance the ends of justice.

The first two questions are governed by the strict statutory framework of POCSO and ordinarily operate against an accused where minority is established. It is the third question that explains the recent quashing decisions. The strength of a petition therefore lies not in asserting that the law recognises the minor's consent, but in demonstrating why the particular case, viewed as a whole, warrants extraordinary judicial intervention.

I. CONCLUSION

The emerging jurisprudence cannot be reduced to a rule that POCSO cases arising from consensual relationships are either always quashable or never quashable. The Hon'ble Supreme Court and several High Courts have granted relief in exceptional cases involving near-major adolescents, consistent statements of a voluntary relationship, subsequent marriage, long cohabitation

and children. Courts have, however, refused relief where the prosecutrix was substantially younger or where the facts raised broader concerns regarding the protective purpose of the statute.

For a person facing such proceedings, the correct legal strategy therefore depends upon much more than the fact that the parties have subsequently married. The FIR, age records, statements of the prosecutrix, medical and documentary evidence, nature of the allegations, present family circumstances, jurisdiction and stage of proceedings must all be examined before assessing whether a petition for quashing is legally maintainable and strategically advisable.

Given the fact-sensitive nature of this developing area of law, each matter requires an individual assessment. A judgment granting quashing on one factual matrix cannot safely be treated as an automatic precedent for another case without comparing the underlying allegations and subsequent circumstances in detail.

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