



2026:AHC:115695-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 8155 of 2026

Chahat Ansari and 2 others

.....Petitioner(s)

Vs.

State of U.P. and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	: M.J. Akhtar
Counsel for Respondent(s)	: G.A., Jagdish Singh

Court No. - 48

**HON'BLE RAJIV GUPTA, J.
HON'BLE DR. AJAY KUMAR-II, J.**

1. This case has been taken up out of turn, on the request of learned counsel for the petitioners for extension of stay. However, learned counsel for the respondent no. 3 is not present and when this Court drew the attention of learned counsel for the petitioners that learned counsel for the respondent no. 3 is not present and let he be informed. On this, learned counsel for the petitioners strongly pressed that as the statement of petitioner no.1 has already been recorded under Section 183 BNSS, therefore, his petition be finally decided today itself. Therefore, we have heard learned counsel for the petitioners, learned A.G.A. for the State and perused the record.

2. The instant writ petition seeks quashing of the FIR dated 02.04.2026, arising out of Case Crime No. 0068 of 2026, under Sections 137(2), 87, 61(2), 316(2) BNS, Police Station Mahuwadeeh, District Deoria.

3. As per the allegations made in the impugned first information report, it is alleged that the daughter of the respondent no.3, i.e. petitioner no.1, aged about 15 years old, is a student of Class-IX. She studied up-to Class-VIII at Composite School, Sampur Khas, Development Block Desahi, Deoria. Presently, she is studying in Class-IX at Masaha School, Pipra Madan Gopal. On 13.12.2015 at around 6:30 pm, the petitioner no. 2 Azad Ansari, who

belongs to her village, enticed and lured away the petitioner no. 1 from her home with intention to marry her. Azad Ansari lives next door to her. The petitioner no.1 left home after taking gold jewellery and a cash of Rs.20,000/-. Azad Ansari, the petitioner no.2 used to come to the house of the respondent no.3 with bad intention towards her daughter, because of which, the respondent no.3 had performed the Nikah (marriage) of her daughter, i.e. petitioner no.1 according to Muslim Rites and Rituals but Vidai (Gauna) was pending. The petitioner no.1 is completely a minor. The father of Azad Ansari, his mother Zarina and Aman Ansari are also involved in abducting the petitioner no.1 and taking jewellery and money. They are hiding the daughter of respondent no.3. The respondent no.3 informed this to the Police Station but, no action is being taken by the police. The petitioner no. 1 is still detained by Azad Ansari, the petitioner no.2 and any untoward incident can happen with her. When no action was taken by the concerned police station, the respondent no.3 sent information to the Superintendent of Police, Deoria via Registered Post but, even then no action was taken. On the application of respondent no.3 under Section 173(4) BNSS, the aforesaid FIR was registered after the order of Court of competent Magistrate.

4. Learned counsel for the petitioners submitted that the petitioner nos. 2 and 3 are wholly innocent and have been falsely implicated in the present case due to ulterior motive. The petitioner no. 1 is the daughter of respondent no.3, who was earlier married against her wishes. The aforesaid marriage of petitioner no.1 was an illegal marriage. The petitioner no.1 actually wanted to marry petitioner no. 2 and therefore, now both the petitioner nos.1 and 2 have solemnized their marriage on 09.03.2026 according to Muslim Rites and Rituals. The petitioner no.1 has married petitioner no.2 out of her own free will and was residing with him without any force or coercion. The aforesaid marriage of petitioner no.1 and petitioner no.2 was solemnized against the wishes of respondent no.3 and that is why, a false FIR has been registered against the petitioner nos. 2 and 3. The petitioner no.1 is major and has married with petitioner no.2 out of her own free will and therefore, no offence, whatsoever is made out against the petitioner nos. 2 and 3.

5. Learned counsel for the petitioners next submitted that from the allegations made in the first information report, prima facie no offence, complained of, is disclosed against the petitioner nos. 2 and 3 and as such, the impugned FIR is liable to be quashed.

6. Per contra, learned AGA has vehemently opposed the prayer for quashing of the FIR as well as the submissions of the learned counsel for the petitioners and submitted that the petitioner no. 1 is a minor girl and her date of birth as recorded in her academic records was found to be 30.08.2011, therefore, she was only 14 years and seven months old on the date of registration of the first information report and was a minor girl of tender age. The petitioner no. 2 enticed the petitioner no.1 and kidnapped her from lawful guardianship of her parents such as to compel her to marry him. The petitioner no.2 was fully aware that the petitioner no.1 was a minor girl of tender age and in-spite of this, has allegedly married her, which marriage is a child marriage and is punishable under the provisions of Prohibition of Child Marriage Act, 2006. The petitioner nos. 2 and 3 have actually conspired to commit this offence. The statement of the petitioner no.1 under Section 183 BNSS has already been recorded and Child Welfare Committee after taking a preliminary assessment, found that the petitioner no.1 is a juvenile and handed over her custody to the respondent no.3.

7. Learned AGA has next submitted that from the allegations made in the first information report prima facie offence, complained of is clearly disclosed against the petitioner nos. 2 and 3 and, as such, the first information report cannot be quashed in view of the law laid down by the Supreme Court in the case of **State of Telangana Vs. Habib Abdullah Jellani reported in (2017) 2 SCC 779, Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others reported in (2021) SCC Online SC 315** and in a recent decision of the Hon'ble Apex Court in **Criminal Appeal No. 843 of 2024, Directorate Enforcement Vs. Niraj Tyagi and others.**

8. Having considered the rival submissions made by learned counsel for the parties and taking into consideration the allegations made in the impugned F.I.R., we have carefully perused the record.

9. A perusal of the FIR reveals that FIR in question was lodged by respondent no.3 for kidnapping of her minor daughter aged about 15 years. As per the FIR, the petitioner no.1 is a student of Class-IX at the time of incident. During the course of investigation, the Investigating Officer has received certificate from the Principal of Composite School, Sampur Khas, Deoria and has also perused the SR Register of concerned School. As per aforesaid certificate and entry recorded at Serial No. 1790 of SR Register, the date of birth of petitioner no.1 is 30.08.2011. The Investigating Officer has also recorded the statement of the Principal of aforesaid School, who in his statement has affirmed the aforesaid date of birth of the petitioner no.1, therefore, the petitioner no. 1 at present is about 14 years and nine months old, who is a minor girl of tender age. Learned counsel for the petitioners has vehemently argued that the petitioner no.1 was illegally married by respondent no.3 to Seebu Khan, the respondent no. 4. However, in spite of this specific admission of petitioners regarding first subsisting marriage of petitioner no. 1, it is quite surprising that without getting any divorce from the said marriage, the petitioner no. 2 has married with petitioner no. 1. The petitioner no.1 in her statement recorded under Section 180 BNSS, has supported the prosecution story. A perusal of the Case Diary reveals that Child Welfare Committee, Deoria, has already handed over the custody of the petitioner no.1 to her mother, respondent no.3, finding the petitioner no.1 a juvenile. The petitioner no.1 in her statement recorded under Section 183 BNSS has stated that she was married with Rehan, however, she ran away and has now started residing with petitioner no.2 after marrying with him. As the petitioner no.1 is a minor girl below 15 years of age as per date of birth recorded in her academic records and therefore, her consent at this stage, is immaterial. The petitioner no.2 knowing fully well that the petitioner no.1 is a minor girl of tender age, kept her in their home. When there is documentary evidence available, the medical opinion with regard to age of the victim becomes irrelevant. Petitioner no.1 in her statement recorded under Section 180 BNSS, has stated that she left her home after having a telephonic talk with petitioner no.2 on 13.12.2025 and thereafter met him in Gorakhpur, where from they went to Deoria and stayed there in a room. Aforesaid statement makes it clear that there was an element of persuasion by the petitioner

no.2, which brought willingness of the girl and therefore, it was petitioner no.2, who persuaded the petitioner no.1 to cause to go to Gorakhpur and from there he took petitioner no. 1 to Deoria and resided there. Therefore, prima facie ingredient of Sections 363 and 366 IPC, are clearly made out.

10. In our considered opinion, a prima facie case has been made out at this stage against the petitioner nos. 2 and 3. The allegations are very serious in nature, therefore, we are of the considered opinion that the impugned FIR discloses commission of a cognizable offence against the petitioner nos.2 and 3, sufficient evidence has already been collected implicating the petitioner nos.2 and 3, as such, the impugned FIR cannot be quashed at this stage .

11. However, before parting with this order, we are of the opinion that prima facie, the alleged marriage(s) of petitioner no.1 either with petitioner no. 2 or respondent no. 4 are clearly child marriage(s), which are punishable under Sections 10 and 11 of the Prohibition of Child Marriage Act, 2006.

12. A three-Judge Bench of the Supreme Court, in **Society for Enlightenment and Voluntary Action v. Union of India, 2024 SCC OnLine SC 2922**, considered the purport of the afore-quoted provisions of the Act in the following paragraphs:

“ 57. Section 10 of PCMA stipulates that a person who performs, conducts, directs or abets any child marriage shall be punished with rigorous imprisonment which may extend to two years and shall be liable to a fine which may extend to one lakh rupees. The provision, unlike Section 9, does not allow the court to choose the option of imposing a fine or sentencing a term of imprisonment or both. A court adjudicating under Section 10 is mandated to impose a sentence of imprisonment as well as impose a fine.

58. The provision is expansive and would govern any accomplice to the commission of child marriage. This would include the priest who performs the marriage, any family member, relative or person at whose direction the marriage takes place or anyone who abets it. The provision stipulates a defence available to any accused under Section 10 which is that a person must demonstrate that he had reasonable belief that the marriage was not a child marriage. The inbuilt defence stipulated in the provision is to safeguard any person who may unwittingly become a part of the commission of the offence of child marriage.

59. Section 11 of the PCMA is a catchall provision against the promotion or permitting of child marriage by those in charge of a minor party to the marriage. The provision reads as follows:

“11. Punishment for promoting or permitting solemnisation of child marriages.—

(1) Where a child contracts a child marriage, any person having charge of the child, whether as parent or guardian or any other person or in any other capacity, lawful or unlawful, including any member of an organisation or association of persons who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, including attending or participating in a child marriage, shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine which may extend up to one lakh rupees: Provided that no woman shall be punishable with imprisonment.

(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor child has contracted a marriage, the person having charge of such minor child has negligently failed to prevent the marriage from being solemnised.”

60. Section 11 stipulates that any person having charge of the child - who promotes or permits a child marriage or fails to prevent it - is liable to rigorous imprisonment which may extend to two years and a fine which may extend to one lakh rupees. Similar to the provision under Section 10 of the PCMA, Section 11 also prescribes a mandate to the sentencing court to impose a sentence of imprisonment as well as a fine. The provision uses the word ‘and’ between the two punishments and the judge does not have the liberty to pick a certain punishment to the exclusion of the other. The person liable under Section 11 may be the parents of the child or a guardian or any other person or organisation. Further, the means by which a person may have the charge of the child is immaterial as the provision stipulates that the charge may be ‘lawful or unlawful’. The section seeks to penalise any person or organisation involved in a child marriage. Its expansive scope allows for the prosecution of any person who may have unlawfully taken the custody of a child and thereafter promoted, permitted or failed to prevent the child marriage. Section 11 also deals with organisations, such as orphanages or schools or hostels, which may have the charge of a child and under whose watch the child is married off.

61. The intention of the provision is to place an obligation on any person who has the charge of a child to ensure that the offence of child marriage is not committed. The provision not only penalises the active participation of the person having charge of a child but also penalises the omission on the part of such a person to prevent child marriage. The provision recognises that children lack the ability to form intelligent consent and may not necessarily know the full ambit of the activity which they are about to commit. Further, children may lack the ability and grit to defend themselves and refuse to participate in the marriage against the pleasure of their custodians or parents.

62. Clause (2) of Section 11 raises a presumption. It stipulates that any person, who is in charge of a child who was married off, is presumed to have negligently failed to prevent the child marriage. The presumption is a rebuttable one and may be defended if the person proves that he could not have prevented the marriage or failed at preventing it, having tried to do so to the best of their ability. This principle is only applicable to an offence under Section 11.”

13. The Karnataka High Court in **Manjunatha N. and Others V. State of Karnataka, through Channarayapatana Police Station 2026 SCC OnLine Kar 1197** in para 14, 15, 16 has observed that:

“14. As poignantly observed by the Supreme Court, child marriage is not a benign cultural practice, but a denial of basic human rights. It curtails education, imperils health and exposes child to exploitation - emotional, social and economic. The formative years for learning, self discovery and intellectual blossoming are permanently burdened with adult responsibilities.

15. A girl married before 18 does not merely enter matrimony, she exits opportunity. The promise of education fades into abstraction. The dream of academic or professional advancement remains precisely that, a dream. The submission that the couple is presently living in harmony, does not efface the illegality committed at the time of solemnisation. Criminal liability is measured at the moment of commission, not neutralised by the subsequent domestic peace. To accept otherwise would be to convert penal law into a matter of retrospective validation through sentiment. Parents who ought to bless their daughters with encouragement, education and empowerment, instead bless them with premature matrimony. If such conduct were to receive judicial indulgence, the eradication of child marriage would remain an illusive aspiration. This Court, therefore, cannot and will not extend its protective arm, to those who indulge in marriage of a child.

16. The pernicious practice of child marriage must be decisively uprooted. It must also be observed that responsibility does not rest solely on contracting parties. Where a marriage is solemnized in a temple, the management of a temple and the officiating priest who performs the ceremony may fall within the sweep of liability under the Act. Where the marriage is conducted in a marriage hall, or other venue, its management and facilitators cannot claim insulation. The statutory design, particularly under Section 11, contemplates accountability for those who promote, permit or fail to prevent such solemnisation. The burden of proving whether a child had attained majority lies in appropriate cases at the stage of trial, especially, in view of the presumption under Section 11(2) of the Act. The reverse burden underscores the seriousness with which Parliament views the protection of minors. The message, therefore, must ring clear and unequivocal, child marriage must be eradicated in its entirety.”

14. The High Court of Kerala in **Moidutty Musliyar and Others V. Sub Inspector Vadakkencherry Police Station and Others 2024 SCC OnLine Ker 4188** in para 30 has observed that:

“ 30. The prohibition of child marriage is important in the modern society. Child marriage denies children their basic human rights, including the right to education, health and protection from exploitation. Early marriage and pregnancy can lead to health problems such as infant mortality, maternal mortality and sexually transmitted infections. Child marriage often forces girls to drop out the school, limiting their education and future opportunities. Child brides are more vulnerable to domestic violence and abuse. Child marriage can perpetuate poverty and limit economic opportunities for individuals and communities. Child marriage can lead to emotional and psychological trauma, including depression and anxiety to the children. Child marriage can lead to social isolation and disconnection from the family and community. Moreover, child marriage is a violation of

international human rights law and conventions as well. Let the children study according to their wishes. Let them travel, let them enjoy life and when they attained maturity, let them decide about their marriage. In the modern society, there cannot be any compulsion for marriage. Majority of the girls are interested in studies. Let them study and let them enjoy their life, ofcourse with the blessings of their parents. When they attain majority and decided that a partner is necessary in their life, let it happen at the appropriate stage so that child marriage can be eradicated from the society. As I mentioned earlier, it is the duty of every citizen to see that there is no child marriage. It is also the duty of the nongovernmental organizations to inform the Child Marriage Prohibition Officer, if any information is received about the likelihood of taking place of solemnization of child marriage. The Judicial First Class Magistrate of the State also should be alert and should take suo motu cognizance, if any reliable report or information is received about child marriage. Let the print and visual media also take initiative to see that there is no child marriage in the State in future at least. I am sure that, all of them will do their job to see that our girls are protected from child marriage.

15. Hon'ble Supreme Court in **Society For Enlightenment and Voluntary Act and Another vs. Union of India and Others, 2024 SCC OnLine SC 2922**, has issued detailed directions for ensuring strict compliance of provisions of the Prohibition of Child Marriage Act, 2006. One of the directions was to take strict disciplinary and legal action against any public servant found to be in deliberate neglect of duty concerning child marriage cases within their jurisdiction.

16. Hon'ble Supreme Court in **Independent Thought vs. Union of India and Another, (2017) 10 SCC 800**, has clearly stated that the time has come when this Act needs serious reconsideration, especially in view of the harsh reality that a lot of child trafficking is taking place under the grab of marriage including child marriage. More stringent punishments should be provided and some minimum punishment should definitely be provided especially to those mature adults who promote such marriages and who perform, conduct, direct or abet any such marriage. Otherwise, this legislation will never act as a sufficient deterrent to prevent or even reduce child marriages. Hon'ble Supreme Court also observed that the Prohibition of Child Marriage Act is a Secular Act applicable to all. It being a special Act dealing with children, the provisions of this Act will prevail over the provisions of both the Hindu Marriage Act and the Muslim Marriages and Divorce Act, insofar as children are concerned. The fact that child marriage is a reprehensible practice; that it is an abhorrent practice; that it violates the human rights of a child, cannot be seriously disputed. A child marriage

will invariably lead to early childbirth and this will adversely affect the health of the girl child. A child bride is more than doubly prone to health problems than a grown up woman. The courts have consistently held that child marriage is an evil which should be avoided.

17. Thus, child marriage is a social evil and is required to be eradicated from this country. Eradication of child marriage is not merely statutory goal, it is a constitutional imperative. The law protects childhood, so that it may blossom into informed adulthood. This Court will not permit this protection to be diminished. The provisions of the Prohibition of Child Marriage Act, makes it clear that strict action is not only required for preventing child marriage but, as soon as the fact of solemnization/conclusion of child marriage, comes to the knowledge of Police authorities, much strict action is required for ensuring prosecution of all those responsible for solemnization of such an illegal child marriage under Sections 10 and 11 of the Act. Normally, an FIR is lodged by the parents of girl child regarding kidnapping of their minor daughter and during the course of investigation, it is found that such a minor girl has solemnized marriage with the accused. After collecting academic records of such minor girl, which clearly indicate her date of birth and on the basis of such date of birth, when it is found by the Investigating Agency that girl child is a minor, accordingly, provisions of POCSO Act, are also invoked. However, we have not come across even a single case till today, when any Investigating Officer has invoked Sections 10 and 11 of the Prohibition of Marriage Act against such accused marrying a girl child and the persons who are responsible for solemnization of such illegal marriage. Therefore, such instances of child marriage, are increasing day by day. Even social and religious organization(s), who are solemnizing such illegal child marriages, normally take refuge of either Aadhar Card of girl child or her affidavit. Law is well settled that date of birth recorded in Aadhar Card is not valid proof of age and in spite of knowing this well settled law, they normally take illegal shelter of such Aadhar Cards and perform illegal child marriages. We are of the considered opinion that no such illegal child marriage can be solemnized by any religious or social organization in the absence of clear cut proof of age of such a minor girl child. An affidavit

sworn by such minor girl child that she is major, cannot make such a girl child a major one. As no action is being taken under the provisions of the Prohibition of Child Marriage Act for prosecuting all those responsible for solemnization of such illegal child marriages, resultantly, child marriages in the State of Uttar Pradesh are increasing day by day. Now a high time has come that some suitable directions be issued to the Director General of Police of the State of Uttar Pradesh to ensure prosecution of all those, who are guilty of child marriages under Sections 10 and 11 of the Prohibition of Child Marriage Act.

18. We, therefore, hereby direct the Director General of Police, Uttar Pradesh to issue necessary instructions, guidelines, circular letter and DGP letter to all the Commissioner of Police/Senior Superintendent of Police/Superintendent of Police of the State of Uttar Pradesh to ensure that appropriate action is taken whenever the fact of a child marriage comes to the knowledge of police, either on a complaint or during the course of investigation or suo-moto regarding commission of a cognizable offence of child marriage and proceedings under Sections 10 and 11 of the Prohibition of Child Marriage Act, 2006, be initiated against all those responsible for solemnization of a child marriage, without any delay. It is only when such action is promptly taken against the accused persons with full vigour and force against all those responsible for solemnization of such child marriages that social evil of child marriages can be wiped out. A copy of this order be sent to the Director General of Police of the State of Uttar Pradesh to ensure the compliance.

19. However, the Investigating Officer of the present case, shall look into the matter from the point of view of the provisions of the Prohibition of Child Marriage Act, 2006 and shall proceed further in accordance with law and complete the investigation. The Investigating Officer/Police, while investigating the first information report, shall keep in mind Sections 10 and 11 of the Prohibition of Child Marriage Act, 2006. In the course of the investigation, if it is found that a particular person had performed, conducted, directed or abetted the marriage (Nikah), then according to Section 10 of the Prohibition of Child Marriage Act, such person would be an accused. A copy of this order be sent to Superintendent of Police, Deoria

for directing the Investigating Officer of this case to ensure compliance of this direction.

20. As no good ground to quash the impugned first information report is made out, therefore, the prayer for quashing the impugned first information report is, refused.

21. The instant writ petition is devoid of any merits and is accordingly, **dismissed** with aforesaid directions.

May 13, 2026
Monika

(Dr. Ajay Kumar-II,J.) (Rajiv Gupta,J.)