

**Court No. - 42**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 11300 of 2025

**Petitioner :-** Smt Arunvati And 4 Others

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Ajay Kumar Kashyap

**Counsel for Respondent :-** G.A.

**Hon'ble Mahesh Chandra Tripathi,J.**

**Hon'ble Anil Kumar-X,J.**

1. Heard learned counsel for the petitioners and the learned Additional Government Advocate representing the State-respondents.

2. The present writ petition has been filed seeking the quashing of the First Information Report dated 20.5.2025, registered as Case Crime No.152 of 2025, under Sections 137(2), 87 of B.N.S. at Police Station Kyoladia, District Bareilly. A further prayer has been made for issuance of direction to the respondents not to arrest the petitioners in connection with the aforementioned FIR.

3. At the very outset, learned counsel for the petitioners submits that both the petitioner nos. 1 and 2 are adults who have solemnized their marriage of their own volition and are presently living together as husband and wife in harmony. It is therefore contended that the allegations do not disclose the commission of any offence under the stated sections, and continuation of the criminal proceedings would amount to abuse of the process of law. Joint affidavit of the petitioner nos. 1 and 2, AADHAR, and marriage certificate of the petitioners are also brought on record in support of the instant writ petition and they have also applied for registration of their marriage.

4. In support of his submissions, learned counsel has placed reliance on the decision of the Hon'ble Supreme Court in **Kavita Chandrakant Lakhani vs. State of Maharashtra & Another** reported in AIR 2018 SC 2099, and also on the judgment dated 05.12.2022 rendered by a Coordinate Bench in Criminal Misc. Writ Petition No. 17046 of 2022 (**Smt. Juli Kumari and Another vs. State of U.P. and Others**).

5. Learned A.G.A., upon instructions, has submitted that till date, no police report has been filed in the present case. However, he does not dispute the fact that the victim/first petitioner is a major lady and has acknowledged her consensual marriage with the second petitioner. He has stated that he has no objection if the matter is adjudicated on its own merits.

6. This Court has carefully perused the record and considered the rival submissions as well as the authorities cited at the Bar.

7. In Kavita Chandrakant Lakhani (supra), the Hon'ble Supreme Court categorically held that to constitute an offence under Section 366 IPC(now 87 BNS), the prosecution must establish that the accused either induced the complainant woman deceitfully or compelled her by force to leave a place with the intent that she may be seduced to illicit intercourse or be compelled to marry. Mere abduction, without the required intent, would not bring the case within the ambit of Section 366 IPC.

8. Similarly, in Smt. Juli Kumari and Another (supra), the Coordinate Bench quashed the FIR under Section 366 IPC in analogous circumstances, observing that both parties were majors and had willingly entered into a matrimonial alliance. It was held that the criminal law ought not to be set in motion when the alleged victim had voluntarily chosen her life partner and was not subjected to any coercion:-

*"Heard learned counsel for the petitioners and learned AGA.*

*Present writ petition has been preferred for quashing the FIR dated 25.10.2022 being Case Crime No.0475 of 2022 under Section 366 IPC, P.S. Saurikh, Distt. Kannauj and for a direction to respondents not to arrest the petitioners pursuant to aforesaid FIR.*

*Placing reliance on the Aadhar Card of the victim girl showing her date of birth as 1.1.2004, it is submitted by the learned counsel for the petitioners that the petitioner no.1 is a major girl aged about more than 18 years on the date of incident.*

*The present petition has been filed with the declaration, jointly by both the petitioners no.1 & 2 that the petitioner no.1 had left her paternal home out of her own sweet will and being a major girl, she is free to take her choice to perform marriage with the petitioner no.2.*

*The present petition, however, has been filed on the assertion that no offence under Section 366 IPC is made out as the petitioner no.1 is a major girl. The entire criminal case lodged by the respondent no.3 is nothing but an abuse of the process of the law.*

*Learned counsel for the petitioners has further contended that in view of the aforesaid facts and circumstances, the impugned FIR is liable to be quashed in view of the Supreme Court's judgment in Kavita Chandrakant Lakhani vs. State of Maharashtra & Anr reported in AIR 2018 SC 2099, wherein it was held that to constitute an offence under Section 366 IPC, it is necessary for the prosecution to prove that the accused induced the complainant woman or compelled by force to go from any place, that such inducement was by deceitful means, that such abduction took place with the intent that the complainant may be seduced to illicit intercourse and/or that the accused knew it to be likely that the complainant may be seduced to illicit intercourse as a result of her abduction. Mere abduction does not bring an accused under the ambit of this penal section. So far as charge under Section 366 IPC is concerned, mere finding that a woman was abducted is not enough, it must further be proved that the accused abducted the woman with the intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person or in order that she may be forced or seduced to illicit intercourse or knowing it to be likely that she will be forced or seduced to illicit intercourse. Unless the prosecution proves that the abduction is for the purposes mentioned in Section 366 IPC, the Court cannot hold the accused guilty and punish him under Section 366 IPC.*

*As regards the age of the victim girl, as indicated in the Aadhar Card appended as Annexure No.2 to the writ petition, no dispute has been raised by learned AGA. It is, thus, clear that both the petitioners are major. The fact that the present writ petition has been filed with the declaration by the victim girl and that she is living voluntarily in the company of the petitioner no.2, is supported with the signature of the victim girl on the Vakalatnama. Once the age of the victim girl is not in dispute, the petitioners no.1 & 2 cannot be made accused for committing offence under Section 366 IPC as victim had left her home in order to live with the petitioner no.2.*

*We make it clear that the question in the present petition is not about the validity of marriage of two individuals i.e. petitioners no.1 & 2. Rather, the issue is about the life and liberty of two individuals in choosing a partner or their right to freedom of choice as to with whom they would like to live.*

*In view of the above discussion, we are of the considered view that from the first information report no offence under Section 366 IPC is made out, inasmuch as, both the petitioners are major and the petitioner no.1 has come up with the categorical stand that she had left her home with the petitioner no.2 willingly and is living with him as a married woman.*

*In view of the above, the writ petition succeeds and is allowed. The FIR dated 25.10.2022 being Case Crime No.0475 of 2022 under Section 366 IPC, P.S. Saurikh, Distt. Kannauj as well as all consequential proceedings are hereby quashed.*

*We, however, clarify that while deciding the present petition, we have not looked into the validity of marriage of the petitioners."*

9. In the present case, the record reveals that the victim is of legal age and has categorically stated that she married the petitioner out of her own free will. There is no material to suggest any element of coercion, deceit, or inducement that would attract the penal provisions under Sections 123 and 64 of B.N.S. Accordingly, we are of the opinion that the initiation of criminal proceedings in such circumstances amounts to a gross abuse of the process of law.

10. In light of the above, and keeping in mind the constitutional rights of consenting adults to choose their partners and cohabit together, this Court finds merit in the petition. Consequently, the writ petition stands **allowed**.

11. The First Information Report dated 20.5.2025, registered as Case Crime No.152 of 2025, under Sections 137(2), 87 of B.N.S. at Police Station Kyoladia, District Bareilly, along with all consequential proceedings, is hereby quashed.

12. It is, however, clarified that the observations made in the present judgment regarding the marriage and relationship of the petitioner nos. 1 and 2 are solely for the purpose of adjudicating the instant writ petition. These observations shall not prejudice or affect the rights and contentions of either party in any other proceeding before the appropriate forum or competent authority.

**Order Date :- 30.5.2025**

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**(Anil Kumar-X, J)**

**(Mahesh Chandra Tripathi, J)**