

MOOT PROPOSITION

1. The State of Pragati Pradesh is a sovereign, democratic and secular constitutional State governed by the Constitution of Pragati Pradesh. The Constitution guarantees to every person the fundamental rights to equality, life, personal liberty and dignity, and ensures protection against arbitrary exercise of State power. The State is governed by the principles of constitutional supremacy, rule of law, separation of powers and judicial independence. All laws, executive actions and judicial proceedings within the State are subject to the Constitution and the fundamental rights guaranteed thereunder. The laws of Pragati Pradesh, insofar as relevant to the present dispute, are substantially *pari materia* with the laws in force in India.
2. Mayuk, aged 35 years, was a resident of Nandipur, District Nandipur, in the State of Pragati Pradesh. He was engaged in private business and was financially stable. In 2017, Mayuk married Kavita in accordance with Hindu rites and ceremonies. The marriage was governed by the Hindu Marriage Act, 1955, and the couple had three children. In the same year, Mayuk came into contact with Bushra, a girl residing in the same locality. Bushra was sixteen years of age at the time. Over the ensuing years, Mayuk and Bushra remained in close contact through telephone calls, electronic messages and meetings at various places outside their locality.
3. Bushra subsequently alleged that, during the period when she was below eighteen years of age, Mayuk established a physical relationship with her on several occasions and took her to various hotels in Nandipur and the neighbouring city of Rajgarh. Mayuk maintained that the relationship was voluntary and continued for several years. He contended that Bushra was aware of his existing marriage and that they had discussed the possibility of marrying each other in the future.
4. Bushra attained the age of eighteen years in 2019, but the relationship continued for several years thereafter. It was alleged that Bushra had tattooed Mayuk's name on her person, which was relied upon as a circumstance indicative of the nature and continuity of their relationship. During the relationship, hotel bookings were allegedly made through Bushra.
5. In 2023, when Bushra was a major, her family arranged her marriage with Aasif. Upon learning that her marriage had been fixed, Mayuk allegedly became distressed and expressed his desire to marry Bushra. At that time, Mayuk's marriage with Kavita was still subsisting; no decree of divorce or decree of nullity had been passed, and Bushra was aware that Mayuk was already married and had three children.

6. Shortly thereafter, Mayuk announced that he had decided to embrace Islam. He underwent a religious conversion ceremony and began professing Islam. The prosecution alleged that the conversion was undertaken primarily for the purpose of marrying Bushra without first obtaining a divorce from Kavita. The defence disputed this allegation and contended that Mayuk voluntarily embraced Islam as a matter of personal faith and that the decision was not merely a device to contract another marriage.
7. Following his conversion, Mayuk and Bushra participated in a Nikah ceremony at a mosque in Nandipur, which was solemnised in accordance with Muslim rites and recorded in a Nikahnama. The arrangements for the Nikah were allegedly made by Bushra herself. At the time of the Nikah, Mayuk's first marriage with Kavita had not been dissolved. Mayuk and Bushra thereafter lived together for approximately five months and represented themselves to persons in their social circle as husband and wife.
8. Mayuk's family strongly opposed the relationship. During the subsistence of his marriage with Kavita, Mayuk had represented to her that he was travelling on a business trip, whereas it was subsequently alleged that he had travelled with Bushra to the mountains. The relationship between Mayuk and Bushra subsequently deteriorated, and Mayuk ceased residing with Bushra and returned to his first family. No decree dissolving Mayuk's first marriage had been passed before or at the time of the Nikah.
9. According to Bushra, her relationship with Mayuk had commenced when she was sixteen years of age and continued for approximately six years. She alleged that, during the period when she was below eighteen years of age, Mayuk repeatedly subjected her to sexual acts and specifically named several hotels where the alleged acts had taken place.
10. The Investigating Officer obtained the relevant hotel registers, identity records and electronic booking records from the hotels identified by Bushra. The records substantially corresponded with the dates and places mentioned by her and established that Mayuk and Bushra had stayed at the identified hotels on several occasions. The authenticity of the hotel records was not disputed during the investigation. The defence, however, contended that the records established only the presence of the parties at the said locations and did not establish what had transpired inside the hotel rooms.
11. The Investigating Agency also obtained electronic communications exchanged between Mayuk and Bushra. Some communications contained expressions of affection and discussions concerning marriage. The prosecution relied upon them as corroborative circumstances establishing the existence and continuity of the relationship, whereas the defence relied upon the same communications to

contend that the relationship was voluntary and that there was no coercion, threat or deception.

12. Bushra's statement was recorded in accordance with the procedure prescribed by law. She stated that she did not immediately approach the police as she believed that Mayuk would marry her and because she feared social and familial consequences. The defence contended that the complaint was lodged only after the relationship had broken down and after Mayuk had returned to his first family.
13. Bushra subsequently lodged a written complaint before Police Station Nandipur, on the basis of which an FIR was registered against Mayuk under the applicable provisions of the Protection of Children from Sexual Offences Act, 2012 and other applicable criminal law. The prosecution alleged repeated sexual assault during the period when Bushra was below eighteen years of age and invoked the relevant provisions concerning sexual assault and aggravated sexual assault. The Investigating Agency also relied upon the statutory presumptions contained in the Protection of Children from Sexual Offences Act, 2012.
14. Mayuk was arrested during the investigation and remained in custody for sixty-eight days. During the investigation, the police did not allege that Mayuk had threatened Bushra, attempted to destroy documentary evidence, or interfered with the investigation. The investigation substantially relied upon Bushra's statement, hotel records, electronic communications, documents relating to Bushra's age, records relating to Mayuk's first marriage, the conversion certificate and the Nikahnama.
15. Upon completion of the investigation, the matter proceeded before the competent Sessions Court. The prosecution relied upon the statement of Bushra, the hotel registers, identity records, electronic booking records, electronic communications and other material collected during the investigation. The prosecution contended that the material on record established the commission of the alleged offences during the period when Bushra was below eighteen years of age and that the statutory presumptions under the Protection of Children from Sexual Offences Act, 2012 were attracted.
16. The defence contended that the relationship between Mayuk and Bushra had continued for several years; that Bushra had voluntarily met Mayuk on numerous occasions; that the hotel records established only the presence of the parties at the relevant locations and did not establish the commission of sexual offences; that Bushra was a minor when the Nikah took place; and that the subsequent conduct of the parties demonstrated the continuing nature of their relationship.
17. The Sessions Court, after considering the evidence and material placed on record, found Mayuk guilty of the offences alleged against him and convicted him in accordance with law. The Sessions Court

relied upon the evidence led by the prosecution, including Bushra's statement, the hotel records, electronic communications and other material forming part of the record.

18. Aggrieved by the judgment of conviction, Mayuk preferred an appeal before the Hon'ble High Court of Pragati Pradesh. The matter was heard by a Division Bench of the Hon'ble High Court. Mayuk challenged the findings of the Sessions Court and contended that the evidence on record did not establish the alleged offences beyond the standard required in criminal proceedings. The defence further relied upon the circumstances surrounding the relationship between the parties, the hotel records, the electronic communications and the subsequent conduct of Mayuk and Bushra.
19. The Division Bench of the Hon'ble High Court, upon reappraisal of the evidence and material on record, acquitted Mayuk of the offences for which he had been convicted by the Sessions Court. The High Court, while recording the acquittal, considered the evidentiary material relied upon by the prosecution and examined whether such material was sufficient to sustain the conviction recorded by the Sessions Court.
20. The State of Pragati Pradesh contends that the Hon'ble High Court erred in interfering with the findings of the Sessions Court and in acquitting Mayuk despite the evidence relied upon by the prosecution, including Bushra's statement, the hotel records, electronic communications and the statutory presumptions under the Protection of Children from Sexual Offences Act, 2012. The State further contends that the High Court failed to correctly appreciate the legal effect of the evidence and the statutory provisions applicable to the case.
21. The State of Pragati Pradesh has preferred the present appeal before the Hon'ble Supreme Court challenging the judgment of acquittal passed by the Division Bench of the Hon'ble High Court of Pragati Pradesh. Mayuk defends the judgment of acquittal and contends that the High Court, upon proper appreciation of the evidence and applicable law, rightly interfered with the conviction recorded by the Sessions Court.
22. The parties are now before the Hon'ble Supreme Court of Pragati Pradesh.

ISSUES

1. Whether the alleged acts committed by Mayuk upon Bushra during the period when she was below eighteen years of age attract liability under the provisions of the Protection of Children from Sexual Offences Act, 2012?
2. Whether Mayuk's conversion to Islam and subsequent Nikah with Bushra during the subsistence of his first marriage with Kavita affect the validity of the subsequent marriage and the legal relevance of such conversion and Nikah?
3. Whether the Hon'ble High Court was justified in acquitting Mayuk upon reappreciation of the evidence on record, including Bushra's statement, hotel records, electronic communications?
4. Whether the statutory provisions of the Protection of Children from Sexual Offences Act, 2012 relating to the presumptions applicable in the present case are constitutionally valid?

