

Problem 4

1. On 22.11.2016, X and Y, who are a heterosexual couple, decide to get married against their parents' wishes. They both run away from their homes in Bangalore and get married in a temple near Mysore. They subsequently also get their marriage registered at the office of the Sub-Registrar of Marriages, Mysore on 1.12.2016. At the time they both run away, X, who is the groom is 16 years old. Y, who is the girl, is 17 years and 300 days old.
2. The parents of Y file a missing person complaint with the Bangalore police on 23.11.2016. Based on this complaint, the police issue a lookout notice for Y.
3. On 5.12.2016, both X and Y return to Bangalore and meet their respective parents. On getting to know that they have married each other, the parents of Y approach the Bangalore Police and file an additional complaint for offences punishable under sections 363, 376 IPC and sections 4 and 6 of the POCSOA, 2012. The police register a fresh FIR against X and he is arrested on 6.12.2016.
4. On 6.12.2016, X, who is in police custody, agrees to give a confession statement. He is accordingly produced before the Additional Chief Metropolitan Magistrate, Bangalore. The magistrate proceeds to examine X and administers warnings to him. On the same day, the Magistrate records the confession of X where he confesses to having sexual intercourse with Y both prior to and after their marriage on 22.11.2016. Thereafter, he is remanded to judicial custody.
5. On 15.12.2016, the parents of both X and Y meet each other and decide to compromise the case. They decide to accept the marriage of their children and do away with criminal proceedings.
6. Thereafter, Y's parents go to the jurisdictional police station and ask for the FIR to be rescinded. However, the police inspector on duty informs them that once an FIR is registered, there is no mechanism to undo it, and the investigation will proceed as per law and a charge sheet filed if an offence is made out.
7. On 30.12.2016, the police take Y for a medical examination wherein sexual intercourse is established by the examining doctor.
8. Y's statement is recorded before the Additional Chief Metropolitan Magistrate under S.164 of the Cr.P.C. on 31.12.2016, wherein she states that her birth certificate is post dated by a year and she is actually above 18 years of age. On being questioned on the offences of rape and under the POCSOA, she states, "Nothing happened before I turned 18."
9. On 2.1.2017, police file a charge sheet stating that offences under sections 363, 376 IPC and s.6 POCSOA were made out and the case should proceed to the stage of inquiry.

10. On 10.1.2017, the parents of both X and Y file a petition before the High Court praying that the FIR against X and the investigation and charge sheet be set aside. The State Public Prosecutor files objections stating that the offences must be tried in accordance with law.
11. Argue for both sides.