

S. No. 45
Regular Cause List

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) 475/2023

ASHIQ AHMAD DAR ...Appellant(s)/Petitioner(s)

Through: Mr. Aabid Hamid, Advocate

Vs.

UNION TERRITORY THROUGH
DIRECTOR GENERAL OF POLICE ...Respondent(s)
AND ORS.

Through: Mr. Syed Musaib, Dy. AG

CORAM:
HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE
ORDER
21.12.2024

Petitioner, *Ashiq Ahmad Dar*, is seeking quashment of FIR no.298/2023 for the offences punishable under Section 366 IPC registered in Police Station Pattan.

Impugned FIR has been registered on a report made by Shabir Ahmad Ganie, wherein he has alleged that his sister-respondent no. 5 herein, whose age is 26 years, has been abducted on 19.08.2023 by petitioner.

Impugned FIR is being challenged on a plea that he and respondent no.5 were in love and they out of their own freewill, entered in marital knot in accordance with Muslim Personal law and in this regard marriage agreement was executed on 21.08.2023. Soon after marriage, petitioner received a threat from brother of respondent no.5 and he, accordingly, filed a writ petition, bearing WP(C) no. 2222/2023, which was disposed of by a Bench of this Court on 25.08.2023 and following order passed therein:

“... Keeping in view the relief sought for, this petition is disposed of , at this stage itself, by providing that respondent Nos. 1 to 6 shall look into the grievance of the petitioners for providing them adequate security and to ensure that nobody interferes in married life of the petitioners, if the petitioners approach them. It is made clear that no opinion has been expressed with regard to the validity of their

marriage, and the police is free to take a view on the basis of the available material and inquiry. If it is found that the parties are major and have married out of their own free will and consent the necessary protection shall be extended to them.”

Petitioner maintains that respondent no.5 was never abducted/kidnapped by him and she of her own consent married him and remained with him. Petitioner has placed on record a copy of FIR, Nikanama, age proof certificate, agreement as well as the copy of order passed by this Court.

Status report has been filed, In para 4 thereof, it is mentioned that during course of investigation, statement of prosecutrix was recorded under Section 164 Cr.P.C on 01.09.2023 and as per the said statement, she had not been abducted/kidnapped by petitioner.

It is thus clear from status report that respondent no.5 does not allege her abduction/kidnapping by petitioner. It is evident from status report that she had out of her own consent gone with the petitioner herein.

In view of above, the offence punishable under Section 366 IPC cannot be said to have been committed by the petitioner.

Registration of impugned FIR amounts to abuse of process of law. The petition is, accordingly, **allowed** and impugned FIR no.298/2023 for the offences punishable under Section 366 IPC registered in Police Station Pattan, is quashed.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
21.12.2024
“Imtiyaz”