

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-20909 of 2014
Date of Decision : 14.09.2015

Madan Lal and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. **Whether reporters of local newspaper may be allowed to see judgment?**
2. **To be referred to reporters or not?**
3. **Whether the judgment should be reported in the digest?**

Present: Sh. N.P. Bhardwaj, Advocate
for the petitioners.

Mr. J.S. Brar, AAG, Punjab
for respondent No.1.

None for respondent No.2.

FATEH DEEP SINGH, J.

This is a petition under Section 482 Cr.P.C. preferred by four petitioners seeking quashment of FIR against them bearing No.147 dated 21.05.2014 under Sections 366, 367, 120-B IPC read with Section 4 of the Children Act, 2006 with Police Station Chheharta District Amritsar.

Heard Sh. N.P. Bhardwaj, Advocate for the petitioner, Sh. J.S. Brar, AAG, Punjab and none for the

respondent No.2 and perused the record of the case.

It has been brought to the notice of the Court that petitioner No.4-Saurav and one Pragya a girl as is submitted by Mr. J.S. Brar, AAG, Punjab, aged around 16 years 10 months developed liking for each other and underwent marriage with each other against the wishes of girl's parents regarding which they had sought protection of life and liberty from this Court by way of filing CRM No.2057 of 2008 (Annexure P2) which stood allowed vide orders dated 13th June, 2014. As a consequence, the marriage stood consummated. The husband has sought quashment of this FIR (Annexure P1) against him and his close relations consisting of his father and others. Though, even on behalf of the petitioner the counsel admits that girl at the time of the marriage was a minor and under the Guardians and Wards Act, 1890 though the parents are the legitimate legal guardian and since, it is a marriage which is voidable in terms of Section 5 of the Hindu Marriage Act, 1955 but since the couple has chosen their life partner against the wishes of their parents and are carrying on this relationship living together, this Court can take the cognizance of the fact even in terms of Section 25 of the Guardians and Wards Act, 1890 as the welfare of the ward is of paramount importance. Since, petitioner No.4 being the husband certainly enjoys by virtue of that relationship in

terms of Sections 19 and 21 of the Guardians and Wards Act read with Sections 6, 10 and 13 of the Hindu Minority and Guardianship Act, 1956 right to hold as the natural guardian of the minor Hindu girl who is married to him which as per the statute is the girl's husband and, thus, reading these provisions conjointly with Section 2 of Hindu Minority and Guardianship Act to further the welfare of minor to ensure that her husband who by now has attained majority can be the guardian of his minor wife and in whose presence there can be no better claimant to this. Moreover, looking it from another angle it is the admitted stand of the couple that the minor girl went with the petitioner-husband voluntarily and there is no element of taking away or enticing a minor within the meaning out of lawful guardianship which is an essential constituent for the offence of kidnapping and there is no element of inducement qua these allegations against the petitioners. From conduct of the minor girl is reflective of the fact that she has abandoned the guardianship of her parents voluntarily.

The counsel for the petitioners has placed reliance upon ***“Rohit Kaushal & Anr. Vs. State & Ors. rendered W.P. (CRL) 891/2009”*** and ***“Jitender Kumar Sharma Vs. State & Another, 2010 (4) RCR (Criminal) 20”*** to hammer home the point that a legitimacy needs to be given to such a relationship

else, it would be counter-productive and against spirit of dispensation of justice as well as Constitutional Right of protection to life and personal liberty which are valuably granted by virtue of Article 21 of the Constitution of India.

Thus, to the mind of this Court in the totality of these circumstances no offence under Section 367, 367, 120-B, IPC read with Section 4 of the Children Act, 2006, either by husband or by his relatives prima facie is made out and in view of the proposition of law laid down in “***State of Haryana and others Vs. Ch. Bhajan Lal and others, 1992 AIR 604***” exceptional circumstances have arisen necessitating intervention of this Court and to exercise its powers under Section 482 Cr.P.C. in the light of what has been discussed above, the instant petition stands allowed and FIR bearing No.147 dated 21.05.2014 under Sections 366, 367, 120-B IPC read with Section 4 of the Children Act, 2006 with Police Station Chheharta District Amritsar against the petitioners with all subsequent proceedings and consequences are hereby quashed.

September 14, 2015
Dpr

(FATEH DEEP SINGH)
JUDGE