

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM No. M-27469 of 2014

Date of decision: 13.01.2015

Sukhveer Singh and another

.....Petitioners

versus

State of Punjab and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.P.P.S.Brar, Advocate for the petitioners
Mr.Ashish Sanghi, DAG Punjab

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

The present petition has been filed for quashing of FIR No.63 dated 19.6.2014 registered under Sections 363, 366 IPC at Police Station Sadar Faridkot, District Faridkot (Annexure P1), lodged by Inderjit Singh (father of Jaspreet Kaur) – respondent No.2 against Sukhveer Singh on the ground that he has kidnapped Jaspreet Kaur with an intention to marry her.

It is averred in the petition that petitioner No.1 has been falsely implicated. It is stated that, in fact, petitioner No.1 has solemnized marriage with petitioner No.2 Jaspreet Kaur on 21.6.2014 at Gurdwara Sri Ranjitgarh Sahib Patsahi Dasvi Sri Chamkaur Sahib Ropar. Marriage certificate and photographs of the

marriage have been produced with the petition as Annexure P2 and P3. It is further stated that the petitioners had approached this Court for protection of their life and liberty on 25.7.2014 by filing CRM No.25048 of 2014, which was granted to them vide order dated 1.8.2014. Therefore, the continuation of proceedings in the present FIR is misuse of process of Court.

In the reply filed by respondent No.1 – State, it is stated that as per school certificate (Annexure R1), date of birth of Jaspreet Kaur is 13.5.1998, showing that Jaspreet Kaur was 16 years of age on the date of occurrence. Birth entry is not available in the office of Registrar Births and Deaths, Faridkot. It is stated that the marriage is not legal and valid. The filing of the petition before this Court for protection of life and liberty is not denied.

I have heard learned counsel for the parties and have gone through the file.

It is not denied that petitioner No.1 Sukhveer Singh has married to Jaspreet Kaur daughter of Inderjit Singh. They had filed a petition before this Court bearing CRM M No.25048 of 2014 (Annexure P4), seeking protection of their life and liberty. This Court accordingly vide order dated 1.8.2014 passed the necessary orders for protection of their life and liberty. In the said petition, it was stated that date of birth of Jaspreet Kaur is 8.9.1996. The photographs of the marriage and marriage certificate were produced with the petition. It is also not denied that now the petitioners are living happily as husband and wife. The only contention raised on behalf of the State is that Jaspreet Kaur was minor on the date of marriage

and that the marriage is illegal. The State relies upon the School certificate, wherein date of birth of Jaspreet Kaur is mentioned as 13.5.998 whereas petitioner claims that date of birth of Jaspreet Kaur is 8.9.1996. Petitioners have produced the photocopy of entry in the births and deaths certificate wherein female child is recorded to be born to the complainant Inderjit Singh and his wife on 8.9.1996. In the complaint, it was stated by Inderjit Singh that his daughter is 17 ½ years of age showing that she was on the verge of majority. In any case, leaving aside the dispute of age, the legal position is that the marriage of the minor is lawful but it is only voidable at the option of the minor. Therefore, the marriage cannot be called unlawful unless it is avoided by the minor. Therefore, it comes out that the petitioners had married each other of their sweet-will and it was not a case of kidnapping. As such, FIR No.63 dated 19.6.2014 registered under Sections 363, 366 IPC at Police Station Sadar Faridkot, District Faridkot (Annexure P1) along with consequential proceedings stands quashed.

The petition is accordingly allowed.

13.01.2015
gk

(Kuldip Singh)
Judge