

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

**Criminal Misc. No. M-27721 of 2015
Date of Decision: 29.9.2015**

Gurpreet Singh @ Labha

--Petitioner.

Vs.

State of Punjab and others

--Respondents.

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Pardeep Bajaj, Advocate
for the petitioner alongwith petitioner in person.

Mr. Daljit Singh Virk, AAG, Punjab.

Mr. G.B.S. Gill, Advocate
for respondent No.2.

Mr. Tarun Jhatta, Advocate
for respondent No.3 alongwith respondent No.3 in person.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioner, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seeks quashing of FIR No. 121 dated 8.7.2013 registered under Sections 363/366-A of Indian Penal Code ('IPC' for short) (Section 376 IPC was added later on) at Police station Sadar Jagraon, District Ludhiana and criminal consequential proceedings arising therefrom.

Notice of motion was issued.

Learned counsel for the petitioner submits that the impugned FIR was lodged by Smt. Chinder Kaur-respondent No.2 only because of the reason that she was not approving the marriage of the petitioner and respondent No.3 (daughter of the complainant-respondent No.2). He further submits that, as a matter of fact, respondent No.3 performed marriage with the petitioner on her own sweet will. Petitioner did nothing wrong, except to fulfill the wishes of respondent No.3 by performing marriage with her. In such a situation, no offence of any kind, whatsoever, would be made out against the petitioner. He also refers to a petition filed by the petitioner and respondent No.3 vide Annexure P-4 before the learned Sessions Judge, Ludhiana, whereupon order dated 20.3.2015 (Annexure P-5) was passed granting protection to them. Respondent No.3 also filed her detailed affidavit Annexure P-6. He concluded by submitting that petitioner and respondent No.3 are still living as husband and wife. He prays for quashing the impugned FIR and consequential criminal proceedings arising therefrom, by allowing the present petition.

On the other hand, learned counsel for the State as well as learned counsel for respondent No.2 submit that present petition is liable to be dismissed. They submit that a bare reading of the FIR would disclose commission of offence against the petitioner. They also submit that the petitioner is not entitled to invoke the inherent jurisdiction of this Court under Section 482 Cr.P.C. Respondent No.3 was minor at the time of her marriage with the petitioner, because of which the impugned FIR is not liable to be quashed. They pray for

dismissal of the present petition.

Having heard learned counsel for the parties at considerable length, after careful perusal of the record of case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case, noticed hereinabove, instant one has been found to be a fit case, warranting interference at the hands of this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C. To say so, reasons are more than one, which are being recorded hereinafter.

With a view to unearth the truth, when a pointed question was put by the Court to Smt. Rajandeep Kaur-respondent No.3, present in the Court, as to whether she has performed marriage with petitioner and living with him on her own, she emphatically answered in the affirmative. She stated before the Court that she has not only performed marriage with the petitioner on her own sweet will but she wants to live with him in future, as well. She further stated that the impugned FIR was lodged by her mother-respondent No.2 only because her parents were not approving her marriage with the petitioner.

She also stated that she knows the petitioner for the last more than 4 years and disclosed her wish to her parents that she wanted to marry the petitioner, however, they did not agree. Having been left with no other option, she herself eloped with the petitioner and performed marriage with him but she was forcibly taken away by her parents. She was forced to suffer a statement under Section 164

Cr.P.C. against the petitioner. She further stated that after finding a suitable opportunity, she again went to the petitioner and is now happily living with him. She also prays for quashing of the impugned FIR and consequential proceedings arising therefrom, so that her married life is not disturbed.

The abovesaid statement made by respondent No.3 has gone undisputed before this Court. In view of the above statement made by respondent No.3, nothing more is required for the purpose of quashing the impugned FIR, as well as consequential criminal proceedings arising therefrom, so as to prevent any further abuse of process of court and also to secure the ends of justice. In fact, once the abovesaid glaring facts have been brought to the notice of this Court by none else but respondent No.3 herself, it becomes not only a compulsive necessity but also a bounden duty of this Court to quash the impugned FIR alongwith consequential criminal proceedings arising therefrom, with a view to secure the ends of justice.

Since respondent No.3 has attained the age of discretion and she had performed marriage with the petitioner on her own sweet will and without any pressure, neither her marriage with petitioner can be said to be void, nor the criminal proceedings arising out of the impugned FIR can be permitted to continue, so as to avoid any further abuse of process of court. The abovesaid view taken by this Court also finds support from the judgment of the Hon'ble Supreme Court in **S. Varadarajan versus State of Madras, AIR 1965 SC**

The Hon'ble Supreme Court in its celebrated judgment in **State of Haryana versus Bhajan Lal and others, AIR 1992 SC 604**, laid down the broad principles for quashing the FIR and criminal proceedings arising therefrom. Relevant observations made by the Hon'ble Supreme Court, laying down seven principles, which can be gainfully followed in the present case, read as under:-

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is

permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”

The law laid down by the Hon'ble Supreme Court in Bhajan Lal's case (supra) has been consistently followed in numerous later judgments by the Hon'ble Supreme Court as well as different High Courts including this Court. Keeping in view the peculiar facts and

circumstances, it is unhesitatingly held that present case falls within the ambit of more than one abovesaid principles of law laid down by the Hon'ble Supreme Court in Bhajan Lal's case (supra). Under these circumstances, it can be safely concluded that continuation of criminal proceedings arising from the impugned FIR would be an exercise in futility and same is liable to be quashed.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present petition deserves to be allowed.

Consequently, FIR No. 121 dated 8.7.2013 registered under Sections 363/366-A IPC (Section 376 IPC was added later on) at Police station Sadar Jagraon, District Ludhiana and consequential criminal proceedings arising therefrom are hereby ordered to be quashed, so as to prevent any further abuse of process of court and also to secure the ends of justice, however, qua the petitioner only.

Resultantly, with the abovesaid observations made, present petition stands allowed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

29.9.2015
AK Sharma