

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

**Crl. Misc. No. M-33926 of 2013
Date of Decision: 13.01.2015.**

Ranpreet Kaur

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Petitioner in person along with
Mr. Sumeet Goel, Advocate.

Mr. V.P.S.Sidhu, AAG, Punjab.

Mr. R.S.Sihag, Advocate
for respondent No. 2.

.....

SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) for quashing of FIR No. 216 dated 23.7.2013, under Section 365/34 of the Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Civil Lines, Amritsar City (Annexure P-1) and all the subsequent proceedings arising therefrom.

Prosecution story, in brief, is that complainant Manjeet Singh had got married to the petitioner on 20.10.1996. Out of the said wedlock, couple were blessed with two children i.e. a daughter and a son. Complainant and petitioner had gone on study visa to Australia on 18.5.2009. Petitioner had developed

relations with another person and a dispute arose between the petitioner and the complainant and they started residing separately. Complainant returned to India on 16.3.2010 and a decree of divorce was passed in favour of the complainant on 10.1.2011. Both the children were staying with the complainant. On 20.7.2013, at about 4.30 P.M., both the children had gone to Model Town to purchase books but they failed to return home. At about 8.30 P.M., Avneet Kaur, sister of the complainant received a phone call from the petitioner that she had taken away the children along with her father.

Learned counsel for the petitioner has submitted that in the present case, children could not be said to have been kidnapped by the petitioner as she was the mother of the children. In fact, children had accompanied the petitioner of their own free will. Complainant after getting a decree of divorce from the petitioner, had got re-married. Complainant had been blessed with a child out of the said wedlock. Family Court at Guwahati had allowed the application moved by the petitioner for custody of the children vide order dated 11.8.2014.

Learned State counsel has submitted that during investigation of the case, statements of the children namely Bhavneet Kaur and Angad Deep Singh alias Angad, were recorded under Section 161 Cr.P.C. The children had stated that they had gone with their mother/petitioner of their own free will.

Learned counsel for respondent No. 2, on the other hand, has opposed the petition and has submitted that petitioner was residing in Australia and had kidnapped the children.

In the present case, admittedly, petitioner got married

to the complainant and they resided in Australia on study visa. Complainant returned to India in March 2010. Complainant had got a decree of divorce in his favour. Thus, marriage of the complainant with the petitioner was dissolved by passing a decree of divorce. Bhavneet Kaur and Angad Deep Singh @ Angad are the children born out of the wedlock of the petitioner and the complainant. During investigation of the case, statements of both the children were recorded and they have submitted that they had gone with their mother of their own free will. Today also, both the children appeared before this Court and stated that they wanted to reside with their mother. Family Court at Guwahati has allowed the application moved by the petitioner claiming custody of the children on 11.8.2014. Petitioner cannot be imputed with the intention to kidnap the children as she is none other but the mother of children. It appears that in some weaker moment out of love and affection, she took the children with her as per the wishes of the children. The fact that the children had gone with their mother of their own free will, is evident from the fact that during investigation of the case, children made statements before the police that they had accompanied their mother of their own free will. Even today in the Court, both the children stated that they had gone with their mother of their own free will and want to continue to reside with their mother. In the facts and circumstances of the present case, continuation of criminal proceedings in question against the petitioner would be nothing but an abuse of process of law.

Accordingly, this petition is allowed. FIR No. 216 dated 23.7.2013, under Section 365/34 IPC, registered at Police

Station Civil Lines, Amritsar City (Annexure P-1) and all the consequential proceedings, arising therefrom, are quashed.

**(SABINA)
JUDGE**

January 13, 2015
Gurpreet