

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM No. M-33425 of 2014

Date of decision: 10.02.2015

Pardeep

.....Petitioner

versus

State of Haryana and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr. Balraj Gujjar, Advocate for the petitioner
Mr.Chetan Sharma, AAG Haryana

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)

Pardeep present petitioner seeks quashing of FIR No.78 dated 25.4.2014 under Sections 363, 365, 366-A, 506 IPC at Police Station Loharu, District Bhiwani (Annexure P2).

The claim of the petitioner is that he had married to respondent No.2 on 20.4.2014 at Shitla Mata Mandir, Kharar, Mohali. Father of respondent No.2 lodged the present FIR against the present petitioner stating that he has kidnapped his daughter with an intention to marry her. It is further stated that respondent No.2 had made a complaint before the Child Welfare Committee, Bhiwani (Annexure P3), levelling allegations against her father. Record regarding age of respondent No.2 is not available. Therefore, her examination for age and sex was got conducted from RNT Medical

College & General Hospital Udaipur, where, it is reported that she is above 18 years of age. Petitioner has not committed any offence.

A perusal of FIR shows that the father of respondent No.2 had alleged that the present petitioner has enticed away her daughter, who is minor. The petitioner has placed on file photographs of the marriage between the petitioner and respondent No.2 (Annexure P1). Copy of the medical examination from RNT Medical College & General Hospital Udaipur has also been filed (Annexure P4), wherein it is reported that respondent No.2 is above 18 years of age.

The State in its reply has taken the stand that respondent No.2 in her statement under Section 164 Cr.P.C., recorded by the learned Sub Divisional Judicial Magistrate, Loharu on 26.5.2014, has stated that she had left her house with her free consent as she was having love affair with the petitioner and that her parents wanted to marry her forcibly with someone else. The photographs of the marriage, marriage certificate have also been produced before the police. However, the stand of the police is that as per school certificate, date of birth of Mona is 20.7.1997. Therefore, she was minor at that time. In this case, parties have stated to have been married against the wishes of the parents. Only dispute raised by the State is regarding the date of birth of respondent No.2 and the fact that she was minor. However, the certificate from the RNT Medical College & General Hospital Udaipur, discussed above, shows that as per medical examination, age of the prosecutrix was above 18 years.

No birth certificate has been produced on file.

Therefore, it comes out that the petitioner and respondent No.2 have married against the wishes of the parents. Even assuming that respondent No.2 was minor at the time of marriage, marriage is voidable, only at the option of the minor. However, it does not make out any offence against the petitioner.

It being so, continuation of FIR is nothing but misuse of process of the Court. Therefore, FIR No.78 dated 25.4.2014 under Sections 363, 365, 366-A, 506 IPC at Police Station Loharu, District Bhiwani (Annexure P2) alongwith the consequential proceedings stands quashed.

The petition is accordingly allowed.

10.02.2015
gk

(Kuldip Singh)
Judge