

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

**Criminal Misc. No. M-43543 of 2014
Date of decision: 27.01.2015.**

Nasru @ Kala and another

..Petitioners

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers 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: None for the petitioners.

Mr. Deepak Sabharwal, Addl. AG, Haryana
for respondents No.1 to 3 – State.

Mr. Sarfraj Hussain, Advocate
for respondent No.4.

None for respondents No.5 to 11.

Daya Chaudhary, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. by the petitioners, namely, Nasru @ Kala and Rohita, for issuance of direction to the official respondents No.1 to 3 for protecting their life and liberty as the private respondents are interfering in their peaceful married life.

Petitioner No.1 Nasru has filed an affidavit wherein it has been mentioned that he was born in the year 1988.

Petitioner No.2- Rohita has filed a certificate issued by office of Rajasthan Medicare Relief Society regarding her date of birth.

While issuing notice of motion on 19.12.2014, it was mentioned in the order that the petitioners are major and have solemnized their marriage contrary to the wishes of private respondents and now they are apprehending threat at their instance. Respondent No.3 was also directed to ensure protection of the petitioners, in case there is any serious threat to them, at the instance of private respondents.

Learned State counsel on instructions from ASI Ravinder Kumar submits that statements of both the petitioners were recorded on 24.01.2015 wherein they have stated that they are not in need of any protection.

One Sharmina, who is earlier wife of petitioner No.1-Nasru along with her two small children is present in the Court and submits that neither any consent was given by her for marriage nor any divorce was there. Nasru has left her along with children and there is no source of income. She also submits that Nasru has solemnized marriage with Rohita because an FIR under Section 376 IPC was registered against Nasru and his brother.

Mr. Sarfraj Hussain, Advocate, has filed Criminal Writ Petition No.1831 of 2014 for issuance of a writ of Habeas Corpus for releasing detinue-Rohita, who is minor daughter of petitioner, namely, Sahabuddin. Mr. Hussain submits that one FIR No.33 dated

01.02.2014 was registered under Sections 376-D, 363, 366-A IPC and Section 4 of POSCO Act at Police Station Punhana. Various representations were made but no action was taken against accused persons. Nasru is brother of accused Kamru, who has been declared proclaimed offender on 04.07.2014. The detainee was kidnapped so that she could not make statement before the trial Court. The date of birth of detainee is 20.04.1998 and she is in illegal custody of private respondents. Mr. Hussain also submits that the detainee has been kidnapped just to pressurize her to give statement in favour of Kamru.

Vide order dated 09.12.2014 passed in Criminal Writ Petition No.1831 of 2014, Superintendent of Police, Palwal was directed to file his affidavit explaining therein as to what action has been taken against accused persons.

On 15.12.2014, It was stated by learned State counsel that Superintendent of Police, Palwal was informed but he said that the matter relates to District Mewat and, therefore, Superintendent of Police, Mewat was informed.

Thereafter, the case came up for hearing on 22.12.2014 and following order was passed: -

“ In compliance of directions issued by this Court on 09.12.2014 and also on 15.12.2014, the status report by way of affidavit of Superintendent of Police, Palwal, has been filed but nothing relevant for taking any step to trace out the missing girl has been mentioned and earlier orders have not been complied with.

Learned State counsel submits that due to bonafide mistake of answering respondent, the affidavit could not be filed as the incident occurred within the jurisdiction of Superintendent of Police, Mewat whereas learned counsel for the petitioner submits that the incident occurred within the jurisdiction of Superintendent of Police, Palwal. Learned State counsel seeks more time to file better affidavit.

It has simply been mentioned in the affidavit that raid was conducted by the Investigating Officer but accused could not be arrested whereas nothing has been mentioned as to what steps were taken to arrest the accused and why inspite of making efforts, accused could not be arrested. It appears that the Police is taking up the matter in a casual manner and the Superintendent of Police is not aware as to what was the order passed by this Court whereas the intimation was sent by the office of Advocate General. The factum of age of the girl is also in the knowledge of the officer as certificate has been supplied by father of the girl and still no action has been taken.

The affidavit be filed within two weeks.

Adjourned to 09.01.2015.”

Learned State counsel submits that on 24.01.2015, both the petitioners have made statements to the effect that no protection is required and this petition has become infructuous. Learned State counsel also submits that no complaint has been filed by earlier wife whether she is being harassed by Nasru or he has left the house.

Earlier wife of Nasru is present in the Court and submits that she is interested in making statement as the marriage has been solemnized contrary to her wishes and even some property is going to be transferred in the name of Rohita whereas it is very difficult for her to earn her livelihood.

While filing the present petition, not only the wrong date of birth has been mentioned but it has been mentioned that the earlier wife has no objection to the subsequent marriage whereas earlier wife is present in the Court and has stated that she has never given any consent for second marriage.

In view of above, the petitioners are not entitled for any discretionary relief as they have not only concealed material facts from the Court but wrong facts have also been mentioned. Moreover, both the petitioners have given statements to the effect that they are not in need of any protection. However, in case, any representation is made by the earlier wife, the respondents are directed to take action in accordance with law.

Accordingly, the present petition is dismissed.

27.01.2015
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(DAYA CHAUDHARY)
JUDGE