

In the High Court of Punjab and Haryana at Chandigarh

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CRM-M-7282-2015

Date of decision: 4.5.2015

PREM CHAND @ ANU

.....Petitioner

Versus

STATE OF HARYANA & ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Johan Kumar , Advocate,
for the petitioner.

Mr.Rajesh K.Sheoran, Addl.A.G.Haryana.

- 1. Whether Reporters of local papers 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?*

RAJ MOHAN SINGH, J.

This petition has been filed for quashing of FIR No. 38 dated 20.1.2015 under Sections 363, 366-A IPC registered at Police Station City Palwal District Palwal (Annexure P-4) along with all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner states that petitioner had solemnised marriage with Anita (sister of respondent No.2) against the wishes of her family members.

After marrying each other, Anita and petitioner filed CRM-M No.5435 of 2015 in this Court for issuance of directions to the police to protect their life and liberty at the hands of private respondents. This Court on 19.2.2015, passed the following order in the said petition:-

“Petitioners claim that they have attained majority and married against the wishes of their family members. Through the instant petition, they seek the protection of their life and liberty.

Notice of motion to the respondents for 4.5.2015.

Meanwhile, an interim direction is issued that the petitioners will not be forcibly taken in custody by any of the respondents on the allegations that petitioner No.1 has been kidnapped or abducted by petitioner No.2.”

According to FIR, the allegations were made by brother of Anita that he is employed in a private company. On 18.1.2015, complainant, his mother Harbiri and sister Anita came from village for shopping at about 4 P.M. When his mother and sister came towards Minar gate from bus stand, then suddenly his sister had dis-appeared. She could not be found. Mother of the complainant narrated the incident after reaching home. Allegations were made against the petitioner that he had

enticed away sister of the complainant with an intention to do wrong act with her. The age of his sister was stated to be 17 ½ years.

The aforesaid case is a case of run away marriage. Date of birth of Anita as per Annexure P-3 (*Adhar Card*) is shown to be 18.9.1995 and her age as on date comes out to be more than 19 years. As per reply filed by respondent Nos. 1 to 3 in CRM-M No.5435 of 2015, the 'School Leaving Certificate' shows the date of birth of Anita to be 7.3.1997. Even according to this certificate, the age of Anita as on date is more than 18 years.

Petitioner has solemnised marriage with Anita and according to Obstetrics Ultrasound dated 2.5.2015 of Shiva Hospital, Opposite Civil Hospital Palwal (Mark 'A'), Anita is now pregnant, carrying pregnancy of about four weeks.

In case of run away marriages, this Court in **Pardeep Kumar Singh vs. State of Haryana 2008 (3) RCR(CrI.) 376** issued the following directions :-

“1. Whenever any intimation is received by the SSP/SP of concerned District regarding the marriage of a young couple with a threat and an apprehension of infringement of the right of life and liberty by the police at the instance of the family members of one of the spouses, the

SSP/SP concerned will consider the representation and will himself/herself look into the matter and issue necessary directions to maintain a record of the said intimation under Chapter 21 of the Punjab Police Rules.

2. On receipt of above said intimation of marriage by any police officer, necessary directions will be issued to the concerned Police Station to take necessary steps in accordance with law to enquire into the matter by contracting the parents of both boy and girl. The matter regarding age, consent of the girl and grievance of her family will be determined. In the eventuality of any complaint of kidnapping or abduction having been received from any of the family members of the girl generally the boy (husband) will not be arrested unless and until the prejudicial statement is given by the girl (wife). Arrest should generally be deferred or avoided on the immediate receipt of a complaint by the parents or family members of the girl taking into consideration the law laid down by Hon'ble Supreme Court in Joginder Kumar's case (supra);

3. If the girl is major (above 18 years), she should

not forcibly be taken away by police to be handed over to her parents against her consent. Criminal force against the boy should also be avoided.

4. So far as the threat to the young couple of the criminal force and assault at the hands of the private persons is concerned, it would always be open to the police to initiate action if any substantive offence is found to have been committed against the couple;

5. In case of any threat to the breach of peace at the hands of the family members of the couple it will always be open to the State authorities to take up the security proceedings in accordance with law;

6. It will not be open to the “run away couple” to take law in their hands pursuant to the indulgence shown by the police on the basis of their representation sent to the SSP/SP of the concerned District;

7. If despite the intimation having been sent to the SSP/SP there is an apprehension or threat of violation of right of personal life and liberty or free movement, the remedy of approaching the High court should be the last resort;

8. In case there is an authority constituted for issuance of marriage certificate as per the law laid down by Supreme Court in Seema's case (supra) in the concerned districts, the couple of so called 'run away marriage' should get the marriage registered in compliance with the directions of the Supreme Court and a copy of the same should also be forwarded to the police along with the representations or any time subsequent thereto.

9. Nothing said here-in-above will prevent the immediate arrest of a person who fraudulently entices a girl with false promises and exploits her sexually as per the statement of the girl."

In case of State of Haryana vs. Bhajan Lal, 1992

Supp(1) Supreme Court Cases 335, the Apex Court held that the inherent powers under Section 482 Cr.P.C. can be exercised in order to prevent abuse of process of law and to achieve ends of justice.

In the case of Kapil Dev vs. State of Haryana and others 2011 (1) RCR (CrI.) 376, this Court quashed the FIR in case of run away marriage after following the law laid down in **Bhajan Lal's case (supra)**.

Since the petitioner has solemnised marriage with

Anita and she is on family way, therefore, continuation of criminal proceedings would jeopardise their married life. This is a fit case where inherent jurisdiction under Section 482 Cr.P.C. can be exercised with a view to prevent abuse of process of law and to secure ends of justice where chances of ultimate conviction of the petitioner are very bleak and remote.

The act in question is personal and resulted in marriage. It does not involve any such offence of mental depravity, nor it involves any offence covered under Prevention of Corruption Act. Therefore, when possibility of conviction is remote and bleak, continuation of criminal proceedings would put the accused to oppression and prejudice. In such a situation the exercise of power to quash the proceedings would be in consonance with the provisions of law to meet ends of justice and to prevent unnecessary continuation of proceedings which may ultimately result in unnecessary vagaries and may prove to be detrimental to married life.

Learned counsel for the State, however, objects to the aforesaid course, but in order to prevent unnecessary continuation of criminal proceedings on the ground that there are bleak chances of conviction, this court is of the opinion that it would be in fitness of things to quash the proceedings against the petitioner.

Resultantly, this petition is allowed. FIR No. 38 dated

20.1.2015 under Sections 363, 366-A IPC registered at Police Station City Palwal District Palwal (Annexure P-4) along with all the subsequent proceedings arising therefrom, are quashed.

(RAJ MOHAN SINGH)
JUDGE

April 04, 2015
anita