

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Cr.M.No.M-9285 of 2014 (O&M)
DATE OF DECISION : 27.4.2015

Mithun

PETITIONER

VERSUS

State of Punjab and others

RESPONDENTS

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

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 ?

Present:- Shri Naresh Gopal Sharma, Advocate for the petitioner.

Shri Deepak Garg, A.A.G. Punjab.

Shri Rajesh Dhiman, Advocate.

MAHESH GROVER, J.

This petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing F.I.R. No.65 dated 4.9.2013 registered under Sections 363,366A,376 I.P.C. at Police Station PAU, Ludhiana which has been lodged by the disgruntled mother (respondent No.2) on account of the marriage of her daughter (respondent No.3) with the petitioner.

Both the petitioner and respondent No.3 are present in Court along with their minor child. It has been stated by them that they are living together happily as husband and wife and a child has been born out of their wedlock and they are being harassed by respondent No.2, who is the mother of respondent No.3 on account of their marriage without parental consent.

Learned counsel for the State does not dispute the factum of marriage, but contends that the trial is in progress.

On due consideration of the matter, I am of the opinion that the powers under Section 482 Cr.P.C. can be exercised to prevent the abuse of law and to secure the ends of justice. The facts of the case prima facie show that the petitioner has entered into a marriage with respondent No.3 without parental consent. Both of them are present in Court along with their minor child and they have also got their statements recorded to say that they are living together happily as husband and wife and the trial proceedings against the petitioner has resulted in sheer harassment.

It has been stated that the petitioner and respondent No.3 were minors at the time of marriage. Be that as it may, the question as to whether they can be prosecuted for entering into a relationship which possibly may be prohibited by law prescribing a marriageable age. The case against the petitioner is not under those provisions of law which prohibit marriage under a prescribed age, but is under the provisions of Sections 363,366A,376 I.P.C.

It would be a travesty of justice to permit prosecution of persons who have entered into matrimonial alliance without parental consent and then sentencing them in the event of a successful trial. This would deeply erode the concept of justice. The Court would not like to comment on the factum of marriage inter-se between the parties and its validity, but suffice it to say that if two individuals capable of understanding the consequences of their action, wish to

reside together, they cannot be prosecuted under Sections 363,366A,376 I.P.C.

A mere cursory look at the petitioner and respondent No.3 and an interaction with them has revealed that they have married and they understand the implications of their acts. Besides, they are blessed with a child and if they are thrust into the trial with the possibility of successful prosecution, it would result in an absolute misery to the entire family in the event of conviction. No doubt, that the law prescribing the age of matrimony and also the law prescribing the age of consent are to be respected, but at the same time, the individual liberties also need to be respected as they are enshrined in the Fundamental Rights. Besides it is evident that the victim is unlikely to support the prosecution case thus indicating a futile trial.

Finding that both the petitioner and respondent No.3 have willingly expressed themselves in support of their relationship they have already entered into which has blossomed further with the birth of a child, I am of the considered view that persisting with the prosecution of the petitioner pursuant to the F.I.R. would not be in the interest of justice. That apart, it has to be noticed that as of today, the petitioner has attained the age of 22 years and respondent No.3, the age of 20 years. Since before this Court they have expressed their support to their relationship, I am of the view that it is a fit case where the power under Section 482 Cr.P.C. ought to be exercised to quash the F.I.R.

The petition is thus allowed and F.I.R.No.65 dated 4.9.2013 registered under Sections 363,366A,376 I.P.C. at Police Station PAU, Ludhiana and all consequential proceedings arising therefrom qua the petitioner is quashed.

April 27, 2015
GD

(MAHESH GROVER)
JUDGE