

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-12825 of 2016
Date of Decision: 23.8.2016**

Surender

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Deepak Gupta, Advocate
for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana.

Ms. Sharmila Sharma, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J(ORAL)

The instant petition is for quashing of FIR No. 476 dated 11.8.2015 registered under Sections 365, 363, 366-A, 467, 468, 471 IPC and Section 18 of POCSO Act, Police Station City Jagadhri and all the consequent proceedings arising out of the same.

Ms. Sharmila Sharma, Advocate puts in appearance on behalf of respondent No. 2 and has filed the power of attorney.

Notice was given to the State only with respect to maintainability of the petition.

The complainant side has also appeared.

Counsel for the petitioner contends that the victim had made a statement before the police that she had gone on her own and had performed marriage with the petitioner and a similar statement has been made before the trial Court and the proceedings are abuse of the process of law and the FIR should be quashed. Counsel for the petitioner refers to '**Association for**

Social Justice and Research versus Union of India and others 2010(4) R.C.R. (Civil) 833' and 'Neerjan Chaudhary and another versus State of Punjab and others 2010 (1) Law Herald 31'.

Complainant side supports the petitioner's stands.

State counsel submits that 13 witnesses out of 18 witnesses have been examined and the trial is going on and the girl was under 18 years of age.

The judgments referred to by the counsel for the petitioner are not applicable as the victim in ***Neerjan Chaudhary***'s case (supra) was major and they had performed marriage and in those circumstances the FIR was quashed.

The second judgment referred to by the counsel for the petitioner is a judgment under the Hindu Marriage Act.

The validity of the marriage is not to be gone into in the petition filed under Section 482 Cr.P.C. The allegations are that the certificate that was presented, was forged and according to the prosecution the girl was 17 years and 02 months old and was a minor. The petitioner disputes the age of the girl. There is a disputed question which cannot be gone into here, the proceedings in the FIR cannot be quashed. The trial has reached the final stages.

No case for quashing is made out.

Petition is dismissed.

**(ANITA CHAUDHRY)
JUDGE**

August 23, 2016
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No