

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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C.R.M-M No.34661 of 2015 (O&M)

Date of Decision : 06.12.2016

SONI DAHIYA AND ANOTHER

...PETITIONER

VERSUS

STATE OF PUNJAB & OTHERS

...RESPONDENTS

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. M.K. Dhot, Advocate
with the petitioner No.2.

Mr. K.S.Pannu, DAG, Punjab.

Mr. R.S. Bains, Amicus Curiae.

Ms. Rajni Gupta, Advocate
for respondents No. 9 to 11.

Petitioner No.1 and Respondents No.4 & 7 are present in
person.

AJAY TEWARI, J. (Oral)

This petition has been filed for issuance of directions to the
official respondents not to harass the petitioners at the instance of
respondents No. 4 to 8 on the ground that they have got married against the
wishes of their parents.

In the petition, it was mentioned that petitioner No.1 is married
while petitioner No.2 is divorcee. When the case come up for hearing on
08.10.2015, the following order was passed:

“Petitioners seek a direction for protection of

their life and liberty as they have married against the wishes of their parents.

Notice of motion for 28.11.2015.

Meanwhile, respondent no. 2 to ensure that no harm is caused to the petitioners.”

On the next date i.e. 28.11.2015, the following order was passed:

“CRM-37924 of 2015

This is an application for placing on record reply filed on behalf of respondent Nos. 4 to 8. Application is allowed as prayed for. Reply is taken on record.

CRM-M- 34661 of 2015

Counsel for the petitioners submits that petitioner No.2 has been taken in custody by Dehradun police. A query has been put to learned State counsel whether order dated 8.10.2015 has been violated. She prays for some time to seek instructions and file affidavit. Affidavit of Senior Superintendent of Police, Sangrur be filed within one week.

To come up on 9.12.2015.

To be shown in the urgent cause list.”

The matter was adjourned for a few dates. On 22.01.2016, the following order was passed:-

“Petitioners had filed the present petition seeking protection to their life and liberty as they had married against the wishes of their parents.

While issuing notice of motion, this court had directed respondent No.2 to ensure that no harm is caused to the petitioners. Stand of counsel for the petitioner is that petitioner No.2 was arrested by the Utrakhand police from District Sangrur itself. Learned State counsel, however, submits that petitioner No.2 was arrested without knowledge of the Senior

Superintendent of Police, District Sangrur.

It appears, matter may require enquiry/investigation by an independent agency. However, one opportunity is granted to State counsel to seek instructions from Director General of Police, Utrakhand and apprise the court. Needful be done within ten days.

To come up on 8.2.2016.”

On 08.02.2016, the following order was passed:-

“Pursuant to order dated January 22, 2016, learned State counsel seeks to place on record affidavit of Prit Pal Singh Thind, Senior Superintendent of Police, District Sangrur. Same is taken on record.

To come up on 24.2.2016.

Mr. R.S. Bains is appointed as Amicus Curiae to assist this court.”

As per the allegations made by the petitioner No.2 the petitioners were picked up from Dirba by the Uttrakhand Police with active connivance of the Punjab police and they brought the petitioners to the Police Station Dirba and taken into custody and this was done illegally because there is no record maintained in the Dirba Police Station.

Learned counsel for the petitioner No.2 has further argued that thereafter the officers of the Punjab Police as well as the Uttrakhand Police however compounded the illegality by filing false affidavits in this Court in which it was stated that actually the petitioners were picked up from Chandighat in District Haridwar. On the other hand, it is the stand of the learned counsel for respondents No. 9 to 11 that it is the petitioner No.2 and his friends who have made false pleadings in this Court.

On 18.11.2016, the following order was passed:-

“Petitioner No.1 is present in the Court and states

that she has no desire to resume any relationship with petitioner No.2 and want to stay with her parent.

Adjourned to 06.12.2016.

It is made clear that petitioner No.1 and any family member of petitioner No.1 is not required to be present in Court on the next date of hearing.”

Thereafter during the pendency of the case and with the intervention of the learned counsel the whole dispute has been settled. The petitioner No.2 has been identified by his counsel and the petitioner No.1 and respondents No.4 & 7 have been identified by Constable Mohit Kumar, posted at Police Station, Kotwali Cantt., Dehradun. It has been agreed that the petitioners will withdraw this petition and the petitioner No.2 will move a petition for quashing of the FIR No.98/2015 registered under Sections 363, 366, 376 IPC and Sections 3 & 4 of the Protection of Children from Sexual Offences Act (POCSO), at Police Station Raiwala, District Dehradun, Uttarakhand, on the basis of today's settlement, in terms of the judgment of the Supreme Court in the matter of ***Gian Singh vs. State of Punjab & Anr., 2012(4) R.C.R. (Criminal) 543.*** This order would be taken to be the settlement effected between the parties. Therefore, the petitioner No.1 and the respondents No.4 to 8 would not be required to record their consent. It has further been agreed that in case the respondents No.4 to 8 resile from today's settlement in any manner and do not cooperate (if require), the petitioner No.2 would be at liberty to revive this petition.

Petition stands dismissed as withdrawn in the aforesaid terms.

(AJAY TEWARI)
JUDGE

December 06, 2016
anuradha/ashish

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No