

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

Crl. Misc. No.M-7501 of 2015

Date of Decision: 02.02.2016

Gurdev Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. Manoj Kumar, Advocate
for the petitioners.

Mr. Rupam Aggarwal, D.A.G., Punjab
for the respondent-State.

DAYA CHAUDHARY, J.

This petition has been filed under Section 482 Cr.P.C by the petitioners, namely, Gurdev Singh, Kewal Singh alias Kabal Singh, Tarsem Singh alias Jaswant Singh, Gurdeep Singh and Prince Singh for quashing of FIR No.25 dated 22.02.2015 registered under Sections 363, 366 and 120-B IPC at Police Station Gharinda, District Amritsar Rural.

As per case of the petitioners, petitioner No.5-Prince Singh and respondent No.3-Gursharan Kaur, the daughter of complainant-Kuldeep Singh, were known to each other. They were willing to perform their marriage but the parents of Gursharan Kaur were against the said marriage. She ran away from her house on 18.02.2015 and

contracted marriage with Prince Singh. She was major at that time and the marriage was performed as per her own free will. The date of birth of Gursharan Kaur is 11.05.1995. Both of them filed a petition bearing **Criminal Misc. No.M-6012 of 2015** before this Court for protection of their lives and liberty at the hands of respondent No.2-Kuldeep Singh and other family members. Gursharan Kaur and Prince Singh were also present in the Court at the time of hearing of said petition, which was disposed of with a direction to the Commissioner of Police, Amritsar to take action on the representation filed by them. On knowing the factum of marriage, respondent No.2-Kuldeep Singh lodged a complaint stating therein that her daughter was enticed away by Prince Singh and the FIR, in question, was registered against the petitioners.

Learned counsel for the petitioners submits that respondent No.3-Gursharan Kaur and petitioner No.5 Prince Singh are residing happily in their matrimonial life. No offence under Sections 363, 366 and 120-B IPC is made out against the petitioners as it was not a case of kidnapping of daughter of the complainant. The marriage between the parties was performed as per their free will. Learned counsel also submits that both Gursharan Kaur and Prince Singh were major at the time of marriage and just because the parents of Gursharan Kaur were not happy with the said marriage, the impugned FIR was registered.

Reply filed on behalf of respondent-State is already on record.

Learned counsel for the respondent-State submits that the matter has been investigated by the Investigating Agency and the cancellation report has also been prepared, which is likely to be presented before the Court.

Heard the arguments of learned counsel for the parties.

Admittedly, petitioner No.5-Prince Singh and respondent No.3-

Gursharan Kaur solemnized their marriage on 18.02.2015 and both were major at the time of marriage. Both of them even filed a petition before this Court for protection of their lives and liberty, which was disposed of with a direction to the Commissioner of Police, Amritsar to decide the representation dated 20.02.2015 submitted by them and to take action thereupon keeping in view the threat perception to the newly married couple. The FIR, in question, was registered by father of Gursharan Kaur stating therein that his daughter was allured by accused persons. Not only the allegations are there against petitioner No.5 Prince Singh but against his other family members as well.

Same issue was there in case **Laddi alias Balwinder Kumar vs State of Punjab and others 2012(2) RCR (Criminal) 124**, wherein, it was held that in case, the girl is major at the relevant time and has voluntarily left her parental house and solemnized marriage with her free will and consent then the complaint made by the family members of the girl, would be misuse of process of law and the FIR deserves to be quashed.

The case of the petitioners is also squarely covered by ratio of law laid down by Hon'ble the Apex Court in case **State of Haryana vs. Ch. Bhajan Lal 1991(1) RCR (Criminal) 383**, wherein, the following principles were laid down for exercise of powers under Section 482 Cr.P.C to prevent the abuse of process of any Court or to secure the ends of justice :-

- “1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation

by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

In the present case also, no offence is made out under Sections 363/366 IPC against the petitioners as Gursharan Kaur was major at the time of marriage and she performed marriage with Prince Singh as per her own free will and consent. Both Gursharan Kaur and Prince Singh are happy in their married life and petitioners No.1 to 4 are family members of Prince Singh. It is totally a misuse of process of law as the FIR has been

registered by father of Gursharan Kaur after knowing this fact that both of them i.e his daughter and Prince Singh, have solemnized the marriage.

Accordingly, this petition is allowed and FIR No.25 dated 22.02.2015 registered under Sections 363, 366 and 120-B IPC at Police Station Gharinda, District Amritsar Rural along with all subsequent proceedings arising therefrom qua petitioners, namely, Gurdev Singh, Kewal Singh alias Kabal Singh, Tarsem Singh, Gurdeep Singh and Prince Singh, are hereby quashed.

02.02.2016
gurpreet

(DAYA CHAUDHARY)
JUDGE