

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-21095-2017
Date of decision: 19.09.2017**

Manish Kumar

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Manoj Pundir, Advocate
for the petitioner.

Mr. P. P. Chahar, DAG, Haryana.

Mr. Nonish Kumar, Advocate
for respondent No. 2.

Mr. Vikram Rathore, Advocate
for respondent No. 3.

JAISHREE THAKUR, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 53 dated 02.07.2016, under Section 376 of the IPC and Section 4 of the Protection of Children from Sexual Offences Act, registered at Women Police Station, District Yamuna Nagar, and all subsequent proceedings arising therefrom.

The aforesaid FIR was registered at the behest of the mother (respondent No. 2) of the prosecutrix-respondent No. 3 herein. In the FIR, it was alleged that the daughter of the complainant-respondent No. 2 was a minor. On 29.06.2016 at about 11.00 AM, her daughter Nisha left the house without informing anybody and came to Meena Market, Yamuna Nagar and she lived with a boy namely Manish son of Sh. Sohan Lal, the petitioner herein. The petitioner took Nisha in the house of his friend's aunt at village

Ahulwala and committed rape upon Nisha.

The petitioner was arrested subsequent to filing of the FIR and remained in custody. The petitioner herein was released on bail and both, the petitioner and the prosecutrix-respondent No. 3, solemnized their marriage on 25.05.2017 on her attaining majority and after that they have been residing together as husband and wife. Apprehending harassment and threat to their lives and liberty, the petitioner and respondent No. 3 sought protection of this Court by filing **CRM-M-20021-2017** which was allowed.

The instant petition has been filed seeking quashing of the FIR in question. Notices were issued in this matter after specifically noting that petitioner and respondent No. 3 were residing together while also staying further proceedings before the trial Court.

Today, appearance has been put in on behalf of respondent No. 2, mother of the respondent No. 3 and the complainant in this case, who specifically submits that she would have no objection in case the instant petition is allowed and the FIR in question is quashed.

Learned counsel appearing on behalf of the respondent-State makes attempt to argue that FIR ought not to be quashed considering the gravity of the charges levelled.

I have heard learned counsel for the parties and have also interacted with the parties who are present in Court.

No doubt, an FIR came to be registered at the behest of respondent No.2, however, this Court while allowing this petition takes note of the fact that both, the petitioner and respondent No. 3, are residing together as husband and wife and that respondent No. 3 has now attained majority. Respondent No. 3 was 17 years and 2 months old at the time when

she left her home with an intention to live with the petitioner but she was sent back by the petitioner himself since she was a minor at that time.

In normal circumstances, this Court would not entertain a matter arising out of Section 376 IPC. In the instant case, the offence complained of is under Section 376 IPC and Section 4 of the POCSO Act which is an offence of grave nature. In the eyes of law, such offence is serious and non-compoundable and the Courts should not in ordinary circumstances interfere and quash the FIR that has been registered. However, keeping in view the fact that after attaining majority, the prosecutrix has performed marriage with the petitioner out of her own free will and they are residing happily as husband and wife and, moreover, the complainant herself has stated that she would have no objection if the FIR is quashed, this Court feels that continuation of the proceedings under the FIR in question will be of no use.

Accordingly, the instant petition is allowed and FIR No. 53 dated 02.07.2016, under Section 376 of the IPC and Section 4 of the Protection of Children from Sexual Offences Act, registered at Women Police Station, District Yamuna Nagar and all subsequent proceedings arising out of the same are quashed qua the petitioner herein.

19.09.2017

Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No