

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

CRM-M-23338-2016
Date of decision: 12.12.2017

Gurpreet Kaur & another

...Petitioners

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. G. S. Sidhu, Advocate
for the petitioners.

Mr. A. S. Dhaliwal, DAG, Punjab.

None for respondent No. 2.

Petitioners No. 1 and 2 in person.

JAISHREE THAKUR, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 7 dated 15.01.2015, registered under Sections 363 and 366-A of the Indian Penal Code at Police Station Cheema, District Sangrur and all subsequent proceedings arising therefrom.

In brief, the facts are that respondent No. 2 Bhupinderpal Singh is the father of petitioner No. 1 who got the aforesaid FIR registered. It was alleged that on the night of 14.01.2015, he and his family members including his daughter had gone to sleep and in the morning at about 05.00 AM he woke up and found that Gurpreet Kaur was not in her bed. After searching for her, the aforesaid FIR was registered on the belief that Gurdeep Singh alias Popi, petitioner No. 2 herein, had allured and taken

away his daughter with intention to marry her against her wishes. Counsel for the petitioner further submits that petitioner No. 1, who was aged 17.5 years, had voluntarily left her parental home to accompany petitioner No. 2 and thereafter they had solemnized marriage in June, 2015 itself, out of which wedlock, a child has also born on 15.03.2016. In fact, the parties are now residing in their matrimonial home. It is contended that petitioner No. 1 left her parents' home on account of the fact that her parents were wanting her to solemnize marriage with a much older person which was against her wishes. It is prayed that the aforesaid FIR should be quashed since the ingredients of Sections 363 and 366-A of the IPC are not made out.

Notice of motion was issued and appearance was caused on behalf of respondent No. 2 who has not filed any reply as on date.

Counsel for the respondent-State submits that petitioner No. 2 was a minor and no marriage could have been performed since the same was barred under the Prohibition of Child Marriage Act, 2006, however, he does not dispute the fact that the parties are now residing together as husband and wife.

I have heard counsel for the parties and in view of the fact that there is a categoric statement made by petitioner No. 1 in proceedings initiated under Section 125 Cr.P.C. for grant of maintenance that she had left her parental home out of her own free will and in view of the fact that petitioner No. 1 and petitioner No. 2 have solemnized marriage, though in violation of the Prohibition of Child Marriage Act, 2006, no offence under Sections 363 and 366-A of the IPC would be borne out. There are no allegations of an offence punishable under Section 376 IPC in the FIR in question. Petitioners No. 1 and 2 are present in Court and they admit to

residing together as husband and wife.

In view of the above facts and circumstances, this Court is of the opinion that no useful purpose would be served in case the proceedings under the FIR in question are allowed to continue.

Hence, in view of the law laid down by the Hon'ble Supreme Court in *Narinder Singh & others vs. State of Punjab & another, (2014) 6 SCC 466*, this petition is allowed and FIR No. 7 dated 15.01.2015, registered under Sections 363 and 366-A of the Indian Penal Code at Police Station Cheema, District Sangrur and all subsequent proceedings arising out of the same are quashed qua the petitioners herein.

12.12.2017

Waseem Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No