

CRM -M-24891 of 2015(O&M)

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In the High Court of Punjab and Haryana at Chandigarh

CRM -M-24891 of 2015(O&M)

Date of Decision: 17.5.2017

Baljinder Singh

---Petitioner

versus

State of Punjab and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Arpandeeep Narula, Advocate
for the petitioner**

Mr. Mikhail Kad, AAG, Punjab

None for respondent No. 2

Rekha Mittal, J.

The petitioner has prayed for quashing of FIR No. 70 dated 1.8.2009 for offence punishable under Sections 363, 366-A of the Indian Penal Code (in short "IPC") registered at Police Station, Kot Bhai, District Sri Muktsar Sahib, order dated 28.7.2010 (Annexure P-5) whereby the petitioner has been declared as a proclaimed offender and the proceedings emanating therefrom.

Counsel for the petitioner has submitted that Raj Kumar, uncle of respondent No. 2 lodged FIR on the allegations that his niece aged 16 years absconded from her house with Baljinder Singh on 13.7.2009. It is further submitted that petitioner No. 1 and respondent No. 2 liked each other and performed marriage on 8.2.2012 and since then they are residing

as husband and wife. It is vehemently argued that as petitioner No. 1 and respondent No. 2, after attaining the age of majority, performed marriage and stayed together as husband and wife, there is no question of the petitioner having committed an offence punishable under Sections 363, 366-A IPC. Counsel further submits that as the parties have amicably settled their differences, no useful purpose would be served by continuation of the criminal proceedings.

Respondent No.2- the alleged kidnapped girl filed her affidavit dated 2.2.2017 in the Court and the same is taken on record. A relevant extract from her statement recorded by the Court reads thus:-

“I have got prepared my affidavit dated 02.02.2017 and the same may be read as a part of my statement. My uncle Raj Kumar son of Bhagwan Dass got registered FIR No. 70 dated 01.08.2009 at Police Station Kot Bhai, District Sri Muktsar Sahib with regard to my kidnapping for offence punishable under Sections 363 and 366-A of the Indian Penal Code, 1860. As my father and other family members wanted to solemnize my marriage against my wish, I performed my marriage with Baljinder Singh-petitioner according to my will without any pressure. I am leading a happy married life with my husband Baljinder Singh. I was 16 years 4 months old at the time of lodging of the FIR but now I am more than 23 years old. I have got no objection if the criminal proceedings initiated against Baljinder Singh at the behest of my uncle Raj Kumar are ordered to be quashed.”

There is no representation on behalf of respondent No. 3 despite service.

I have heard counsel for the petitioner and perused the records.

The petitioner was allowed interim bail with a direction to appear before the trial court vide order dated 30.7.2015. In pursuance thereof, he caused appearance before the court and was released on bail. Under the circumstances, order declaring him proclaimed offender is of no consequence more particularly that his presence is not required for the purpose of trial qua instant FIR.

Taking into consideration the averments set up in the petition coupled with statement of respondent No. 2 when examined in the light of judgment of Hon'ble the Supreme court of India *S.Varadarajan vs. State of Madras 1965 AIR (SC) 942*, judgments of Delhi High Court *Rukshana and another vs. Govt. of NCT of Delhi and others 2007(3) R.C.R. (Criminal) 542* and *Court On its Own Motion (Lajja Devi) VS. State, (Delhi) 2012 (4) R.C.R.(Civil) 821*, continuation of criminal proceedings in the given circumstances would be nothing but an exercise in futility and that too at the cost of creating acrimony in matrimonial relations of petitioner No. 1 and respondent No. 2 who have performed marriage and leading a happy married life. In this view of the matter, the criminal proceedings initiated at the instance of respondent No. 3 are liable to be put to an end and ordered accordingly.

For the foregoing reasons, the petition is allowed, FIR No. 70 dated 1.8.2009 for offence punishable under Sections 363, 366-A IPC registered at Police Station, Kot Bhai, District Sri Muktsar Sahib and

proceedings emanating therefrom and order dated 28.7.2010 are ordered to be quashed, qua the petitioner

(Rekha Mittal)
Judge

17.5.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No