

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

Crl. Misc. M 25837 of 2016 (O&M)
Date of decision: 19.7.2017

Aasif @ Mohd. Asif and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Munfaid Khan, Advocate
for the petitioners.

Ms. Gagandeep Kaur, AAG, Haryana.

Mr. Hemant Goyal, Advocate,
for respondent No.3.

JAISHREE THAKUR, J.

1. Instant petition has been preferred under section 482 of the Code of Criminal Procedure for quashing of FIR No. 190 dated 04.04.2016 under Sections 34 and 365 IPC registered at Police Station Nuh and all consequential proceedings arising thereunder .

2. In brief, the facts are that respondent No. 2 filed an application before the police with allegations that his niece had been abducted by 4 persons and he identified them as Asif son of Sharif Khan, Jahir son of Haroon, Tarik son of Liyaqat and Sakeel son of Sami Khan the present petitioners. On the basis of the complaint, FIR No. 190 dated 04.04.2016 under Sections 34 and 365 IPC came to be registered at Police Station Nuh.

It is argued that in fact petitioner No. 1 and niece of the complainant got married on 02.04.2016 and even sought protection from their parents from

this court by filing Cr. Misc M No. 13357 of 2016, which was disposed of by order dated 14.07.2016. It was argued that in the aforesaid proceedings the statement of Ravina was recorded in Court in which she had stated that she had married Mohammed Asif Ali/petitioner No.1 of her own free will and wanted to reside with him. On the basis of the statement made in Court, Ravina was permitted by the Court to accompany her husband Mohammed Asif Ali, with a further direction to the State to protect life and liberty of both the petitioners. Thereafter, this instant petition has been filed for quashing of the FIR and all consequential proceedings arising thereunder at the behest of all accused.

3. Learned counsel for the petitioners would contend that the proceedings under the FIR are nothing but an abuse of the process of the law, since petitioner No. 1 is happily married and residing with respondent No. 3—Ravina, niece of the complainant, after the marriage had been solemnized under the Muslim Shariat Law. It is also argued that in proceedings initiated under the said FIR, co-accused under Sections 365, 366, 376-D 344, 506 and 120 B IPC have been found innocent by the Sessions Court in Sessions case No. 119 of 2016 decided on 3.12.2016. In the said proceedings Ravina prosecutrix stated on 27.10.2016 that she went with Mohammed Asif on her own accord and the case registered against the accused is false. It was also stated that she was pregnant and was residing happily.

4. I have heard the counsel for the parties and have also produced the pleadings.

5. The case, as set up, is that petitioner No. 1 and respondent No. 3

got married on 2.4.2016 of their own free will and even sought protection from this Court fearing a threat to the life and liberty at the hands of her parents. The High Court by an order dated 14.7.2016 directed the respondents state to ensure protection after recording the statement of the prosecutrix that she wanted to reside with her husband whom she had married. It is noted that even in proceedings against co-accused in the aforesaid FIR registered under sections 365, 366, 376-D 344, 506 and 120 B IPC have been dropped by the Learned Additional Sessions Judge, Mewat, by holding that the prosecution has not been able to establish its case and acquitted the co-accused of the charges framed against them by giving them benefit of doubt.

6. Once the prosecutrix, who is stated to be 19 years of age, had herself submitted in Court that she had voluntarily married with petitioner No. 1 and wanted to reside with him, no offence under section 365 IPC for kidnapping or abducting with intent secretly and wrongfully to confine person would be made out. As noticed about, the prosecutrix has not supported the prosecution version before the Sessions Court. Therefore, taking an overall view of the above facts, this Court is of the opinion that no fruitful purpose will be served in case proceedings under FIR No. 190 dated 04.04.2016 under Sections 34,365 IPC registered at Police Station Nuh are allowed to continue.

7. Consequently, for the reasons stated above, this petition is allowed and FIR No. 190 dated 04.04.2016 under Sections 34 and 365 IPC registered at Police Station Nuh and all subsequent proceedings arising out of the same are quashed.

The petition stands disposed of.

19.7.2017
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No