

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

**CRM-M-27731-2017
Date of decision: 30.11.2017**

Hasir

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Kunal Dawar, Advocate
for the petitioner.

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

Mr. A. P. S. Dhillon, 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. 114 dated 07.03.2017, under Sections 363, 366-A, 346 of the Indian Penal Code and Section 10 of the Prohibition of Child Marriage Act, 2006, registered at Police Station Nuh, District Mewat, Haryana.

Learned counsel for the petitioner herein submits that the petitioner and respondent No. 3 Rubina are from the same village and being Muslim, they are governed by Muslim Law. It is further contended that respondent No. 3, being a major, left her parental home out of her own free will on 06.02.2017 and got married to petitioner herein on 07.03.2017 as per her own free will in accordance with Muslim rites and ceremonies. Therefore, the FIR under Sections 363, 366-A and 346 of the IPC read with Section 10 of the Prohibition Child Marriage Act, 2006 is not sustainable.

I have heard learned counsel for the parties and have perused the pleadings.

The aforesaid FIR was registered at the behest of the father of respondent No. 3 alleging that his minor daughter, aged 13/14 years, had been enticed away by the petitioner who came to be arrested on 27.03.2017 and respondent No. 3 Rubina was produced before the Chief Judicial Magistrate, Mewat on the same day for recording of her statement. In the statement recorded, respondent No. 3 submitted that she does not want to go with her parents as she apprehends threat to her life from their parents. Consequently, respondent No. 3 was sent to Nari Niketan/Bal Grih. During investigation, it transpired that the age of the prosecutrix was 16 years and 01 month as her date of birth was reflected as 01.02.2001. The petitioner herein approached this Court for grant of regular bail which was allowed by the order dated 11.05.2017 passed in **CRM-M-12807-2017**. The prosecutrix, who had been sent to Nari Niketan/Bal Grih, was ordered to be sent to her parental home along with her parents. However, she recorded a statement on 02.05.2017 before the Child Welfare Committee, Nuh stating that she had been pressurized by her parents to give a statement regarding rape while also stating that she was major and she left in the company of the petitioner out of her own free will. The petitioner also preferred a Criminal Writ Petition No. 603 of 2017 for issuance of a writ in the nature of habeas corpus directing respondent No. 3 to be released from Nari Niketan/Bal Grih. In those proceedings, a direction was issued for the prosecutrix to be produced before the Chief Judicial Magistrate, Mewat on 26.05.2017 and when she was produced, she made a statement that she wanted to reside with the petitioner and consequently by an order dated 30.05.2017, Chief

Judicial Magistrate, Mewat ordered the prosecutrix to be released. In the meanwhile, chargesheet was presented leading to the filing of the present petition seeking quashing of the FIR in question.

I have heard counsel for the parties and have also perused the record of the case.

There is no doubt that the marriage has been solemnized between the petitioner and respondent No. 3/prosecutrix who has categorically given a statement before the Chief Judicial Magistrate, Mewat that she is the wife of the petitioner and would like to reside with him. The Investigating Officer HC Suraj, who is present in Court, affirms the fact that respondent No. 3 is residing with her husband, the petitioner herein.

In such a situation when a marriage has taken place between the petitioner and the prosecutrix/respondent No. 3, this Court is of the opinion that no useful purpose would be served in continuing with the proceedings initiated under the aforesaid FIR.

Hence, this petition is allowed and FIR No. 114 dated 07.03.2017, under Sections 363, 366-A, 346 of the Indian Penal Code and Section 10 of the Prohibition of Child Marriage Act, 2006, registered at Police Station Nuh, District Mewat, Haryana and all subsequent proceedings arising out of the same are quashed qua the petitioner herein.

The petition stands disposed of.

30.11.2017

Waseem Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No