

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

CRM- M-32007 of 2014 (O&M)
Date of decision: 20.12.2017

Rahul Jain

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. NPS Kohli, Advocate for the petitioner(s).

Ms. Dimple Jain, AAG, Haryana.

Mr. Rohan Mittal, Advocate for respondent No.2.

JITENDRA CHAUHAN, J. (Oral)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of FIR No.247 dated 18.05.2013, registered under Sections 363, 366 and 120-B of IPC, at Police Station City Fatehabad and all consequential proceedings arising therefrom.

Learned counsel for the petitioner states that the petitioner and the prosecutrix have solemnized marriage and she has been happily residing in her matrimonial home. The couple has been blessed with a daughter, who is now aged 03 years.

Petitioner and his wife/prosecutrix Sonam heard in person. The prosecutrix states that she has been happily residing with the petitioner in her matrimonial home and she has no objection in case the present petition is allowed.

On the other hand, learned counsel for respondent No.2 opposes the prayer made by the petitioner.

Heard.

Hon'ble the Supreme Court in ***S. Varadarajan Vs. State of Madras, 1965 AIR (SC) 942***, has observed as under:-

“9. It must, however, be borne in mind that there is a distinction between "taking" and allowing a minor to accompany a person. The two expressions are not synonymous though we would like to guard ourselves from laying down that in no conceivable circumstance can the two be regarded as meaning the same thing for the purposes of Section 361 of the Indian Penal Code. We would limit ourselves to a case like the present where the minor alleged to have been taken by the accused person left her father's protection knowing and having capacity to know the full import of what she was doing voluntarily joins the accused person. In such a case we do not think that the accused can be said to have taken her away from the keeping of her lawful guardian. Something more has to be shown in a case of this kind and that is some kind of inducement held out by the accused person or an active participation by him in the formation of the intention of the minor to leave the house of the guardian.

10. It would, however, be sufficient if the prosecution establishes that though immediately prior to the minor leaving the father's protection no active part was played by the accused, he had at some earlier stage solicited or persuaded the minor to do so. In our opinion if evidence to establish one of those things is lacking it would not be legitimate to infer that the accused is guilty of taking the minor out of the keeping of the lawful guardian merely because after she has actually left her guardian's house or a house where her guardian had kept her, joined the accused and the accused helped her in her design not to return to her guardian's house by taking her along with him from place to place. No doubt, the part played by the accused could be regarded as facilitating the fulfillment of the intention of the girl. That part, in our opinion, falls short of an inducement to the minor to slip out of the keeping of her lawful guardian and is, therefore, not tantamount to 'taking'.”

Keeping in view the fact that the petitioner and the

prosecutrix have solemnized marriage and she has been residing happily with the petitioner and out of wedlock, there is a female child aged 03 years and the ratio of law laid down in by Hon'ble the Supreme Court in **S. Varadarajan's** case (supra), this Court feels that no useful purpose would be served in keeping the proceedings alive. It will be in the interest of justice, if the settlement reached between the petitioner and the prosecutrix is accepted. Continuation of criminal proceedings shall ruin the matrimonial life of the petitioner and the prosecutrix.

Accordingly, the present petition is allowed. FIR No.247 dated 18.05.2013, registered under Sections 363, 366 and 120-B of IPC, at Police Station City Fatehabad and all consequential proceedings arising therefrom are hereby quashed qua the present petitioner(s).

20.12.2017
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable:	Yes	No