

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

Crl. Misc. M 42055 of 2016 (O&M)
Date of decision: 28.9.2017

Bobby and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Maninder Singh Bajwa, Advocate
for the petitioners.

Mr. M.S. Nagra, AAG, Punjab.

JAISHREE THAKUR, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking for quashing of FIR No. 220 dated 7.11.2016 (Annexure P/1) registered under Sections 363, 366 (A) and 120-B IPC at Police Station Sadar Amritsar and all subsequent proceedings arising therefrom.

The facts, in brief, are that petitioner No.1—Bobby and Harpreet Kaur, daughter of respondent No.2 were known to each other for the last so many years and they fell in love and ultimately they got married on 9.11.2016 against the wishes of the mother of Harpreet Kaur by running from her house. After the marriage, petitioner No.1 and Harpreet Kaur approached this Court for protection of their life and liberty from the hands

of respondent No.2 and other family members by way of filing Crl. Misc. M 40557 of 2016, which was disposed of with the direction that in case of any instance of threat is brought to the notice of the police by the petitioners therein they will act into it expeditiously. It is claimed that Harpreet Kaur is major her date of birth being 13.3.1998, as per her educational documents and Aadhaar card. Petitioner No.2 has been falsely implicated in this case she being the mother of petitioner No.1, though she has no role to play in the alleged kidnapping of respondent No. 2.

Learned counsel for the petitioner submits that the petitioners have been falsely implicated in the case as no offence is made out against them. Petitioner No.1 and respondent No.2 got married out of their sweet will. It is further submitted that Balwinder Kaur-respondent No.2 and Bobby-petitioner No.1 are residing together as husband and wife, after getting protection from this Court and no offence at all can be attributed to petitioner No.2. However, she has been named merely because she is mother of petitioner No.1.

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

In normal circumstances, the Court would not entertain a matter when offences are heinous in nature and against the public. In the instant case, the offence complained of is under Sections 363 and 366-A IPC which are offences of grave nature. In the eyes of law, the offence of kidnapping is serious and non-compoundable and the Courts should not in the ordinary circumstances interfere and quash the FIR registered. However, there are

always exceptions to the normal rules and certain categories of cases, which deserve consideration specially when it is case of love affair between teenagers and on fear of the society and pressure from the community, one party alleges kidnapping, cases where the accused and the victim are well known to each other, and allegation of kidnapping is levelled only because the marriage was performed against the wishes of the parents.

In the instant case, a complaint came to be made in which it was stated that accused-petitioner No.1 had kidnapped and allured Harpreet Kaur with an intention to marry her.

In a judgment rendered by the Hon'ble Supreme Court in ***Narinder Singh and others vs. State of Punjab and another, 2014(6) SCC 466***, the Hon'ble Apex Court has laid down certain principles and guidelines which should be kept in mind while quashing of FIRs pertaining to non-compoundable offence. For ready reference paragraphs No. 29.2 and 29.5 are reproduced as under :-

“29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure :

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to

great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case.”

In a decision of Hon'ble Supreme Court in Gian Singh Versus State of Punjab and another, 2012 (4) RCR (Cr.) 543, the law on the point has been summed up. It has been laid down that the inherent power of quashing an FIR with the High Court is of wide plenitude with no statutory limitation with the only requirement that it should be exercised to secure the ends of justice or to prevent abuse of the process of any court. It has also been laid down that before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Exception has been held to be there in cases of offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity. It has been further held that in case the dispute is basically private or personal in nature and the parties have resolved their dispute, the criminal proceedings may be quashed. What has to be considered in this regard is the remote and bleak possibility of conviction.

In the instant case, the matter though cannot be said to have been compromised between the petitioner and the complainant, yet the victim and the accused are living together as husband and wife and in the given circumstances, the possibility of conviction is very bleak.

Consequently, for the reasons stated above and in view of the law laid by the Hon'ble Supreme Court in the aforesaid cases, this petition is allowed and FIR No. 220 dated 7.11.2016 (Annexure P/1) registered under Sections 363, 366 (A) and 120-B IPC at Police Station Sadar Amritsar and all subsequent proceedings arising therefrom are quashed.

The petition stands disposed of.

28.9.2017
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No