

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

CRM-A No.608-MA of 2016

Date of decision: 10th October, 2018

Baljit Kaur

... Applicant

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. S.S. Kainth, Advocate for the applicant.

FATEH DEEP SINGH, J.

The present case was got registered on the statement of complainant Baljit Kaur who is applicant before this Court and also happens to be mother of the girl in question. The precise allegations levelled by her, which led to registration of the case bearing FIR No.134 dated 03.12.2014 under Sections 366/34 IPC pertaining to Police Station Kathu Nangal, Amritsar (Rural), are to the effect that on 01.12.2014 at about 4:00 a.m. she along with her daughter had gone to their cattle shed for milking cattle and which is at some distance from their residence. It is alleged that at that time her daughter was in possession of her mother's gold ornaments and a sum of Rs.2,500/- in cash. The allegations are that around 4:30 a.m. when they were returning home, accused Kanwaljit Singh (also referred to as 'Kamaljit Singh alias Kamla') along with one lady and two men were standing with muffled faces, whom she could not recognize, and they forcibly dragged her daughter and made her sit on the

motorcycle and ran away. On her raising raula, Harjinder Singh and Sukhdev Singh were attracted. Thus, it is alleged that these accused persons have forcibly kidnapped her daughter.

During investigations, accused Karamjit Singh, Kanwaljit Singh and Baljit Singh were arrested whereas accused Gian Kaur was released on anticipatory bail in the present case. Upon completion of investigations, charges against the accused were framed under Sections 366/34 IPC to which they pleaded not guilty. The prosecution at the trial examined complainant Baljit Kaur as PW1 who reiterated her allegations and thereafter examined the prosecutrix as PW2 followed by the testimony of PW3 Sukhdev Singh, PW4 HC Bikramjit Singh, PW5 HC Harjit Singh, PW7 Nirmal Kumar, PW8 Shamsher Singh and PW9 Palwinder Singh Principal and in the process proved statement of the complainant Ex.P1, her signatures thereon Ex.P1/A, endorsement Ex.PW6/A, FIR Ex.PW6/B, rough site plan Ex.PW6/C, recovery memo of prosecutrix Ex.PW4/A, application moved before Id. CJM, Amritsar for recording statement of prosecutrix u/s 164 Cr.P.C. as Ex.PW6/D, endorsement of CJM Ex.PW6/E, application moved for obtaining copy of statement under Section 164 Cr.P.C. Ex.PW6/F, arrest memo of accused Karamjit Singh Ex.PW6/G, his personal search memo Ex.PW6/H, record of Hotel Harry Sangam Ex.PW7/A, arrest memo of accused Kanwaljit Singh Ex.PW7/A, his personal search memo Ex.PW7/B, arrest memo of accused Baljit Singh Ex.PW5/C, his personal search memo Ex.PW5/D, formal arrest memo of accused Gian Kaur Ex.PW6/I and her personal search memo Ex.PW6/J.

Upon closure of the evidence of the prosecution, entire evidence was put to the accused in their stand individually recorded under Section 313 Cr.P.C. to which they denied the allegations and took the plea of false implication on the grounds that the girl was major and had on her own went with Kanwaljit Singh as they were in a relationship, and in defence proved documents Ex.D1 (wrongly exhibited on two documents), Ex.D2 and Ex.D3. Thereafter, the defence evidence was closed leading to passing of the impugned judgment of acquittal dated 11.01.2016 by the Court of Additional Sessions Judge/Exclusive Court, Amritsar. The same is subject matter of challenge before this Court.

Heard Mr. S.S. Kainth, Advocate representing the applicant in the application for leave to file appeal and perused records of the case. The complainant claims that her daughter is a minor when in her cross-examination as PW2 she accepts the fact that at the time of occurrence she was a student of B.Sc. (Economic) 1st year in R.R. Bawa DAV College, Batala and was residing in a hostel. The documentary proof as to her age by way of copy of matriculation certificate as Ex.D1 shows her date of birth to be 15.03.1994 and therefore on the date of occurrence i.e. 01.12.2014 she is proven to be major, aged more than 20 years and to the specific query of the Court, learned counsel for the complainant applicant was unable to rebut the same. Furthermore, during the course of her cross-examination, the girl was confronted with the fact that she along the principal accused Kanwaljit Singh had filed a protection petition after getting married, photographs of which have been proved as Ex.D1 and Ex.D2 and in her affidavit Ex.D3 she has admitted this relationship. Thus

from this all, it is suggestive of the fact as has been the conclusion drawn by the Court below that the girl being a major, on her own had entered into a matrimonial relationship with the accused Kanwaljit Singh and had sought protection from the Court. The Court below had observed in its judgment, the girl accepts to be above 18 years of age and that from the place of occurrence she boarded a bus to Amritsar and thereafter to Chandigarh where they performed marriage and also had appeared before this Court in the protection petition so filed. Thus, all the documentary proof as to her age, the alleged ceremony of marriage, photographs and the fact that she came all the way from her place of residence to Amritsar and then to Chandigarh and back thereafter to Amritsar by means of public transport through road and on the way they had passed toll barriers, are matters of much significance. Thus, the very element of kidnapping of a mature and a major girl certainly is unbelievable. The Court below has rightly drawn conclusion to this effect. Learned counsel for the applicant Mr.Kainth could not convince this Court as to any illegality or perversity in the findings so recorded by the Court below. The application being without any merit stands dismissed and leave to appeal is thus declined.

(FATEH DEEP SINGH)
JUDGE

October 10, 2018

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No