

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

CRM-M-10435-2018

Date of decision: 29.11.2018

Kamaljeet Kaur and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr.Tarun Vir Singh Lehal, Advocate,
for the petitioners.

Mr. Luvinder Sofat, Asstt. A.G., Punjab.

Mr. L.S. Lakhanpal, Advocate,
for respondent No.2.

JAISHREE THAKUR, J. (ORAL)

1. The instant petition under Section 482 Cr.P.C. has been filed by the petitioners seeking quashing of FIR No. 40 dated 05.06.2017 under Sections 363, 366-A and 120-B IPC, registered at Police Station Kahnuwan, District Gurdaspur (Annexure P-2) and all consequential proceedings arising therefrom.

2. In brief, the facts are that petitioner No.1 and one Ravinder Kaur solemnized a marriage out of their own free will and consent on 07.06.2017. At the time of marriage, petitioner No.2 was below the age of marriageable age as his date of birth has been shown to be of the year 1999.

It was an inter-caste marriage for both of them and fearing threat at the

hands of relatives and the parents of Ravinder Kaur, they approached this Court by way of filing CRM-M-21709-2017 seeking protection of their life and liberty. The High Court by an order dated 13.06.2017 allowed the said protection with a direction that any proceedings initiated by a competent person under the provisions of the Prohibition of Child Marriage Act, 2006 would not be affected by this order. The complainant mother of the said Ravinder Kaur initiated FIR No. 40 dated 05.06.2017 (Annexure P-1) on the ground that her daughter had been taken away by Sikhardeep Singh @ Vicky, petitioner No.2 herein, by enticing her to solemnize a marriage with her. On the registration of the FIR, the petitioner herein approached the High Court again for grant of anticipatory bail under Section 438 Cr.P.C. by filing CRM-M-23453-2017, which petition was allowed by order dated 22.11.2017. It is thereafter, the instant petition has been filed for quashing of the FIR on the basis that the allegations in FIR No. 40 dated 05.06.2017 (Annexure P-1) are not sustainable since the daughter of the complainant had willingly left in his company and solemnized a marriage and had even approached the Punjab and Haryana High Court at Chandigarh seeking protection at the hands of her parents.

3. It is argued that offence under Sections 363 and 366-A of the IPC is not made out from the facts of the instant case on account of the fact that Ravinder Kaur willingly and knowingly left her home in the company of petitioner No.2. It is argued that they continued to reside together happily. He also contends that she left her home willingly and is now residing happily with petitioner No.2 herein and that she was major at that time.

4. Notice of the instant petition was issued and appearance has been caused on behalf of the respondent-State and complainant-respondent No.2.

5. Counsel for the respondent-State argues that the offence under Sections 363 and 366-A of the IPC has rightly been made out and the same should not be quashed.

6. I have heard learned counsel for the parties and have also perused the pleadings therein and the case law as relied upon in ***Prem Chand vs. State of Haryana 2015(8) R.C.R. (Criminal) 64.***

7. As per the facts enumerated above, it appears that the daughter of the complainant voluntarily left her house and accompanied the petitioner herein and thereafter solemnized a marriage on 07.06.2017 according to Sikh rites and rituals with her own free will. It appears that the daughter of the complainant took a conscious decision to run away and solemnize a marriage with petitioner No.2 herein. At the time when both petitioner No.2 and the daughter of the complainant appeared before this Court seeking protection of their life and liberty, it was made clear that the protection “*would not hamper any proceedings initiated by a competent person under the provisions of the Prohibition of Child Marriage Act, 2006.*” As on date, no such petition/ application seems to have been filed to have the marriage set aside either by the daughter of the complainant or the complainant herself on the ground that a marriage had been solemnized with a minor. The parties have been residing happily together and it would be great injustice to them in case the proceedings under the FIR are allowed to continue against the petitioners. Continuation of the criminal proceedings

would jeopardize their married life. Since the counsel for the complainant herein has submitted that she has no objection to the FIR being quashed, there are bleak and remote chances of ultimate conviction of the petitioner.

8. In similar situation the High Court in ***Prem Chand (supra)*** and ***CRM-M-16112-2017*** titled '*Kulveer Singh vs. State of Punjab and another*' decided on 22.11.2018 had allowed the quashing of the FIR on the ground that the marriage between the parties continued to subsist and in case the FIR is not quashed it would jeopardise the marriage.

9. In such a situation, this Court has no hesitation in exercising its inherent jurisdiction under Section 482 Cr.P.C. to quash FIR No. 40 dated 05.06.2017 under Sections 363, 366-A and 120-B IPC, registered at Police Station Kahnuwan, District Gurdaspur (Annexure P-2) against the petitioners at the behest of the complainant and all consequential proceedings arising therefrom. Ordered accordingly.

10. Petition stands allowed.

29.11.2018

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes.

Whether reportable

No.