

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

CRM-M-16112-2017
Date of decision: 22.11.2018

Kulveer Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr.Harsh Chopra, Advocate,
for the petitioner.

Ms.Rajni Gupta, Sr. DAG, Punjab.

None for respondnet No. 2 despite service.

JAISHREE THAKUR, J. (ORAL)

1. The instant petition under Section 482 Cr.P.C. has been filed by the petitioner seeking quashing of FIR No. 07 dated 25.01.2017 (Annexure P-1) under Sections 363 & 366 IPC, registered at Police Station Sandhaur, District Sangrur and all consequential proceedings arising therefrom.

2. In brief, the facts are that the petitioner and one Menka solemnized a marriage out of their own free will and consent on 27.01.2017 at Ludhiana. It was an inter-caste marriage for both of them and fearing threat at the hands of the parents of Menka, they approached this Court by way of filing CRM-M-5269-2017 seeking protection of their life and liberty. The High Court by an order dated 17.02.2017 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 os the said Menka initiated FIR No. 07 dated 25.01.2017 (Annexure P-1) on the ground that his daughter had been taken away by Kulveer Singh, the petitioner 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-9710-2017, which petition was allowed by order dated 26.04.2017. It is thereafter, the instant petition has been filed for quashing of the FIR on the basis that the allegations in FIR No. 07 dated 25.01.2017 (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. It is contended that the daughter of the complainant Menka has also suffered a declaration dated 12.05.2017 to the effect that she is happily residing with her husband, and that she had accompanied him of her own free will. Therein is a categoric mention that she was neither kidnapped nor abducted.

3. Notice of the instant petition was issued and appearance has been caused on behalf of the respondent-State, whereas despite service no appearance has been caused on behalf of complainant-respondent No.2.

4. 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 & Anr. vs. State of Haryana & Anr. 2015(8) R.C.R. (Criminal) 64.***

5. 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. As per the self-declaration that has been given, the date of birth of the complainant is 12.03.2000 and she solemnized a marriage on 21.01.2017 according to Sikh rites and rituals. Even in her evidence in the trial Court, she has clearly admitted that she went with the petitioner of her own free will. Even though the complainant's daughter is a minor, it appears that she took a conscious decision to run away and solemnize a marriage with the petitioner herein. At the time when both petitioner 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 petitioner. Continuation of the criminal proceedings would jeopardize their married life and out of this wedlock there is already a minor child. Since the daughter of the complainant herein has suffered a declaration that she has no objection to the FIR being quashed, there are bleak and remote chances of ultimate conviction of the petitioner. Moreover, the complainant has not put in an appearance in this Court despite service to object to the quashing of the FIR

and, therefore, it can be taken that there is a tacit approval for the same.

6. In similar situtaion the High Court in *Prem Chand & Anr. (supra)* 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.

7. In such a situation, this Court has no hesitation in exercising its inherent jurisdiction under Section 482 Cr.P.C. to quash FIR No. 07 dated 25.01.2017 (Annexure P-1) under Sections 363, 366 IPC, registered against the petitioner at the behest of the complainant at Police Station Sandhaur, District Sangrur and all consequential proceedings arising therefrom. Ordered accordingly.

8. Petition stands allowed.

22.11.2018

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.