

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.5502 OF 2018

Mrs.Laxmi Rahul Mishra & Anr.

..Petitioners

V/s.

Union Territory Administration of
Daman and Diu

.. Respondent

Mr.Anand Upadhyay for the Petitioners.

Mr.H.S. Venegaonkar for Respondent No.1.

Ms.Alpa T. Javeri for Respondent No.2.

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 26th JUNE 2019

P.C.

1. Heard.

2. The petitioner Nos.1 and 2 have jointly filed the present Writ Petition praying for quashing and setting aside the FIR bearing C.R. No.130 of 2018 dated 06.11.2018 registered with Nani Daman Police Station, Daman for an offence punishable under Section 363 of the Indian Penal Code.

The petitioner No.2 is arraigned as an accused in the

said FIR.

The said FIR was registered on a complaint preferred by the mother of petitioner No.1 and wherein it was alleged that the petitioner No.1 who is the daughter of the complainant, aged about 17 years, left her house without informing anyone and she expressed her doubt that petitioner No.2 has kidnapped her daughter.

3. The petitioners have stated in the Writ Petition that both are residents of Daman and they were acquainted with each other and belonged to the same caste. The relationship of love blossomed between them and their respective families came to know about their liking. However, the complainant Smt.Rambhadevi i.e. mother of petitioner No.1 was against the decision of the couple to marry. It is alleged that she used to assault and harass petitioner No.1 and wanted her to marry with some other boy of her choice. The petitioner No.1 was firm and she left the house out of her own will to marry with the petitioner No.2. Thereafter, the petitioner No.1 got married with the petitioner No.2 on 06.10.2018. The petitioners have placed on record the Marriage Certificate issued by Aarya Samaj, Jammu which is dated 06.10.2018. The petition further proceed to state that at the time of marriage, the petitioner

has attained majority and therefore she was entitled to take her own decisions which included a decision to marry. After marriage, the petitioner No.1 accompanied the petitioner No.2 who is residing in Jammu. In this backdrop, the FIR is sought to be quashed on merit.

4. We heard the petition yesterday and the hearing was attended by the petitioner as well as respondent No.2, the complainant. We have interacted individually with the petitioner No.1 and respondent No.2. The petitioner categorically admitted that she had left her mother's house on account of her free will and got married with petitioner No.2 on 06.10.2018 and she intends to continue to reside with the petitioner No.2 as his wife, and do not intend to return to her mother's house. The respondent No.2-complainant expressed that she was concerned only about well being of her daughter and we should give an opportunity to interact with her.

5. Accordingly, we directed the parties to spend some time and adjourned the hearing for today.

6. Today, the respondent No.2 is absent. Her counsel submit that petitioner No.1 and respondent No.2 had interacted and

submitted that appropriate order may be passed.

7. The date of birth of the petitioner No.1 recorded in the school record is '20.01.2001'. Taking into consideration we find that on the date of incident, the petitioner No.1 was 17 years and 8 months old. However, we find that the petitioner No.2 has not kidnapped her. On the contrary, the petitioner No.1 accompanied with petitioner No.2 and at her insistence petitioner No.2 got married to her. The Marriage Certificate by Aarya Samaj, Jammu is also placed on record at Exhibit-A. It shows that the petitioner Nos.1 and 2 are married. The petitioner Nos.1 and 2 are present in the Court. The petitioner No.1 specifically stated that subject FIR may be quashed against the petitioner No.2 as he is not at fault.

8. In above circumstances, we are of the opinion that the case is made out for quashing the subject FIR. Otherwise also, no purpose would be served by continuing the investigation in the subject FIR. We accordingly quash and set aside the subject FIR. The petition is allowed in terms of prayer clause (a).

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)