

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

CRM-M No.36065 of 2016
Date of decision: 22nd May, 2019

Raj Kumar @ Rajpal & others

... Petitioners

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. R.A. Sheoran, Advocate for the petitioners.

Mr. Rakeshinder S. Sidhu, Asstt. AG, Punjab
for respondent No.1/State.

Mr. R.S. Bhatta, Advocate for respondents No.2 & 3.

FATEH DEEP SINGH, J.

By this petition preferred under Section 482 Cr.P.C. seeking quashment of FIR No.0101 dated 23.08.2016 under Sections 363, 366A, 34 IPC registered with Police Station City Jalalabad, District Fazilka (Annexure P6) has put a societal challenge to the plight and saga of run-away couples. How on account of our society still predominantly anarchist where male chauvinism coupled with feudalism are largely at play and, thus, are responsible for governing even the marital preferences of grown-up children. Precisely, this is the sad story of petitioner Raj Kumar alias Rajpal and his wife Kajal Rani. In the light of contentions and facts brought to the notice of this Court, Kajal Rani who happens to be daughter of private respondents No.2 and 3-Hardev Singh and Shimla

respectively, was in a relationship with petitioner No.1 Raj Kumar @ Rajpal, which was strongly opposed by the parents of the girl and subsequently, on account of an incident FIR (Annexure P6) was registered by the father of the girl. Meanwhile, by another quirk of fate the couple is alleged to have entered into a wedlock on 10.01.2016 with the consent of their parents regarding which proof marriage certificate and the photographs have been placed on the record and thereafter, it is alleged that on 08.03.2016 parents of the girl accompanied by the police officials came to their house and took away their daughter Kajal Rani under threat and a complaint was lodged by mother of the girl under Section 97 Cr.P.C. After a few days, on 31.03.2016 Kajal Rani came back to her matrimonial home and moved an application under Section 107/116(3) Cr.P.C. (Annexure P3) stating that her parents wanted to marry her with another person, for which they have also got her pregnancy aborted. It is in the background of this, the couple has sought quashment of the FIR.

Kajal Rani, daughter of the private respondents, to facilitate this quashment petition, has put in appearance and filed her duly sworn attested affidavit accompanied by the marriage certificate, photographs and birth certificate of her son Jevik from the loins of petitioner No.1 before this Court to the effect that they have voluntarily entered into a wedlock and she was a major and that out of this wedlock she has been bestowed with a male child.

Upon hearing at length Mr. R.A. Sheoran, Advocate representing the petitioners; Mr. Rakeshinder Singh Sidhu, Asstt. AG, Punjab on behalf of respondent No.1/State; and Mr. R.S. Bhatta, Advocate representing respondents No.2 and 3, parents of the girl. Though the State has fairly conceded the factual situation and has not opposed the grant of relief keeping in view the humanitarian angle, but on behalf of respondents No.2 and 3 stiff opposition has sought to be made by the counsel.

Admittedly, petitioner No.1 and daughter of the private respondents No.2 and 3 were in a relationship and much prior to registration of the FIR by respondent No.2 against the petitioners under Sections 363, 366-A, 34 IPC, have entered into a wedlock and out of which a male child has been born, are matters which have great bearing on the case of the two sides. Had it been a pure simplicitor case as detailed in the FIR (Annexure P6) and not a case as the one arising out of matrimony ties, this Court would have been too reluctant to interfere. The Courts are tools of social justice not only to dispense justice but also to ensure that such an invocation by a disgruntled father who certainly have an axe to grind has its serious repercussions on the matrimonial life not of the couple only but of the tender child of the girl out of this relationship. This Court in the exercise of its powers under Section 482 Cr.P.C. taking a pragmatic approach to meet the ends of justice, to further ensure that this harassment is put to an end and thus this prosecution of the

petitioners which does not become a convenient tool in the hands of respondents No.2 and 3, so as to spoil the very prospects of this matrimony. Thus, this Court deems its duty to show indulgence and, thus, retrieve this relation which otherwise will go to the brink of disaster. The Hon'ble Delhi High Court in Full Bench view reported in "**2012 (4) RCR Civil 821, Court on its own motion (Lajja Devi) Vs. State**", justifies invoking these inherent powers, though this Court does not encourage such cases of couples which are cause for social turmoil but having regard to the fact that even this Court feels that the case of the petitioners stands qualified for the eventualities laid down by the Hon'ble Apex Court in the case of "**State of Haryana and others Vs.Ch. Bhajan Lal and others, 1992 AIR (SC) 604**". More so, this prosecution would not lead to any tangible results and would only be a futile exercise. Thus, exercising these powers the instant petition stands allowed thereby quashing FIR No.0101 dated 23.08.2016 under Sections 363, 366-A, 34 IPC registered with Police Station City Jalalabad, District Fazilka (Annexure P6) with all consequential proceedings arising out of the same.

(FATEH DEEP SINGH)
JUDGE

May 22, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No