

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-20804 of 2019

Date of Decision: 27.08.2019

Aniket Saini & another

...Petitioner(s)

Versus

State of Haryana & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Arjun Sheoran, Advocate
for the petitioners.

Ms. Gaganpreet Kaur, AAG, Haryana.

Ms. Monika Thakur, Advocate
for respondent no.3.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR no.200 dated 15.04.2018 under Sections 363/366-A IPC registered at P.S. Pehowa, District Kurukshetra and all subsequent proceedings arising therefrom.

The aforesaid FIR was registered at the behest of respondent no.2 - Sanjeev Kumar. As per the FIR, on 14.04.2018, at about 9-00 PM., respondent no.3-Vaishnavi, who is daughter of the complainant, after taking dinner went to sleep in her room along with her mother Ritesh Rani. About 12-30 AM, when her mother came in her room, she found that Vaishnavi was not present on her bed. She along with other family

members searched for her in the house and town, but Vaishnavi could not be found. It was suspected that petitioner no.1 had enticed away respondent no.3-Vaishnavi, who was minor.

Counsel for the petitioners has referred to certificate dated 01.05.2018 (Annexure P-3) of marriage of petitioner no.1 with respondent no.3, wherein it has been certified that the petitioner no.1 and respondent no.3 have solemnized their marriage on 01.05.2018. The petitioner no.1 and respondent no.3 had also approached this Court by way CRM-M-18919-2018 titled as *Vaishnavi and anr. Vs. State of Haryana & ors.* (Annexure P-5) seeking protection of their life and liberty and this Court vide order dated 04.05.2018 had granted such protection to them. He further states that respondent no.2 had also approached this Court by way of CRWP-370-2018 *Sanjeev Kumar Vs. State of Haryana and others* for issuance of writ in the nature of *habeas corpus*, which was disposed of by this Court vide order dated 11.05.2018 with a direction to the Superintendent of Police to ensure protection of the said detainee i.e. respondent no.3. Learned counsel has also made reference to the statement of respondent no.3-Vaishnavi under Section 164 CrPC, which reads as under:-

“On dated 14.04.2018 I went to the house of Aniket in the night. I asked him to accompany me and I had also wrote a letter to the police that we have threat to our life and I am going according to my wish. On dated 04.05.2018 we performed marriage in the Court. I have threat from my paternal uncle and maternal uncle. And in case anything happened to us, m y parents shall be responsible for the same.

Now I want to live in the house of Aniket with his parents. I have solemnized my marriage with my own sweet will.”

Ms. Monika Thakur, Advocate has put in appearance on behalf of respondent no.3 and filed her *vakalatnama* in Court, which is taken on record. She has submitted that as on date, petitioner no.1 and respondent no.3 are staying together as husband and wife and respondent no.3 is six months pregnant.

On the other hand, learned State counsel has submitted that on the relevant date when respondent no.3 was enticed away by petitioner no.1, she was minor and challan in the case has already been submitted on 05.02.2019.

I have heard learned counsel for the parties.

No doubt, as per the FIR, the petitioner no.1 had allegedly enticed away respondent no.3, when she was 17 years, 11 months and 15 days of age, however, their marriage was solemnized after her attaining the age of 18 years and thus, as on the date of marriage, she was major. The marriage of the petitioner was solemnized with the consent of respondent no.3, who is staying with petitioner as his wife and now she is pregnant also.

The Apex Court in the cases of **Ranjit Kaur @ Rani & ors. Vs. State of UP and ors.** Criminal Appeal no.1979 of 2013 decided on 24.02.2016 and **Shyam Veer Singh Vs. State of UP** 2014(2) CCR 46 has ordered the FIR under Sections 363 and 366 IPC is to be quashed in view of the fact that marriage was solemnized between the parties voluntarily, without any compulsion and coercion and on attaining the age of majority.

In the case in hand, the marriage of respondent no.3 was solemnized after her attaining the age of 18 years.

Therefore, this Court finds that once the parties have solemnized their marriage on attaining the age of majority and they are staying together as husband and wife and now, the wife is pregnant from the petitioner, continuance of criminal proceedings in such like case, are nothing but mere harassment to the parties. Though despite being served, no one has come forward to put in appearance on behalf of respondent no.2-complainant, but considering the fact that respondent no.3 left her parental home voluntarily with her own free will and solemnized marriage with petitioner no.1 and now they are staying together as husband and wife and respondent no.3 is pregnant also, the present petition is allowed and FIR no.200 dated 15.04.2018 under Sections 363/366-A IPC registered at P.S. Pehowa, District Kurukshetra and all subsequent proceedings arising therefrom are hereby quashed *qua* the petitioners.

August 27, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No