

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-44630 of 2017

Date of Decision: 17.01.2019

Nishan Singh @ Ghulla & others

...Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

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

Present:- Mr. S.S. Kainth, Advocate
for the petitioners.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

Mr. Mandeep Singh, Advocate
for respondent no.3.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 482 of the Code of Criminal Procedure, 1973 is for quashing of FIR No.116 dated 14.11.2017 (Annexure P-1) under Sections 363/366/120-B IPC registered at P.S. Ghuman, Police District Batala.

Learned State counsel, on instructions from ASI Bhupinder Singh, submits that in the aforesaid FIR, police has already investigated the matter and cancellation report has also been prepared, which is pending consideration with the competent authority for necessary approval. The

same shall be presented in Court as and when approval is granted by the competent authority.

At the same time, counsel for respondent no.3 states that respondent no.3 is major and is staying with her husband i.e. petitioner no.1 – Nishan Singh @ Ghulla. He further states that respondent no.3 was major even on the date of her marriage with petitioner no.1.

I have heard learned counsel for the parties.

Record reveals that petitioner no.1 and respondent no.3 had approached this Court by way of CRM-M-43786-2017 *Balwinder Kaur & anr. Vs. State of Punjab & ors.*, whereby they had sought protection of their life and liberty and this Court vide order dated 17.11.2017 while disposing of the said petition, had directed the SSP, Gurdaspur to look into the representation so submitted by the petitioners-therein and ensure protection of their life and liberties. Though while disposing of the said petition, the Court had not made any observation as regards the validity of marriage of the petitioners-therein.

Admittedly, petitioner no.1 and respondent no.3 are staying together as husband and wife and even on the date when they had approached this Court for protection of their life and liberties, they were major. Even otherwise, respondent no.3 is not going to support the case of the complainant, who happens to be her father and is against their marriage. In paragraph no.2 of her separate reply, respondent no.3 has specifically stated that the allegations so levelled in the FIR are incorrect and she does not support the same. The contents of paragraphs no.2 and 3 read as under:-

- “2. That the deponent is supporting the contents of aforementioned petition and same may be read as part and parcel of present affidavit. It is admitted that deponent/respondent no.3 is 20 years of age, hence she is major and has voluntarily left her house and on 15.11.2017, the deponent/respondent no.3 has performed marriage with petitioner no.1, out of her free will. Thereafter, petitioner no.1 and deponent/respondent no.3 have jointly filed petition (CRM-M-43786/2017) titled as “Balwinder Kaur & Another Versus State of Punjab & others” before this Hon’ble Court with prayer for protection of their life & liberty from the hands of her parents, and after hearing the said petition at considerable length, this Hon’ble Court has pleased to dispose of the said petition vide its order dated 17.11.2017.
3. That since the date of marriage i.e. 15.11.2018, the deponent/respondent no.3 is residing with her husband i.e. petitioner no.1. The allegations leveled in FIR no.116 dated 14.11.2017 (Annexure P-1) registered under Sections 363/366/120-B IPC at P.S. Ghuman, Police District Batala, On the statement of respondent no.2, are incorrect, hence, the deponent is not supporting the same.”

In view above, this Court finds that since respondent no.3 is major and is staying with her husband-petitioner no.1, the present petition deserves to be allowed. Further, she is supporting the case of petitioner and not likely to depose against him, who happens to be none else than her husband.

Accordingly, the present petition is allowed and FIR No.116 dated 14.11.2017 (Annexure P-1) under Sections 363/366/120-B IPC registered at P.S. Ghuman, Police District Batala is quashed.

January 17, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No