

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

CRM M-681 of 2017

Date of Decision: January 24, 2019.

Satnam and another

.....Petitioners

Versus

State of Haryana and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Jugraaj Kapoor and Ms. Akanksh Nayyar, Advocates
for the petitioners.

Mr. Amrik Narwal, DAG, Haryana
for respondent No. 1-State.

Mr. R.S. Malik, Advocate
for respondents No. 4 to 5.

FATEH DEEP SINGH, J. (Oral)

This petition has come about with the aid of Section 482 Cr.P.C. whereby petitioners, namely, Satnam and Ritu have sought against private respondents as well as State an order for quashment of FIR No. 250 (Annexure P-1) dated 17.04.2016 registered under Sections 323, 363 and 366 of IPC.

The primary grounds that have been canvassed are that petitioner No.2-Ritu is a grown up educated girl pursuing her diploma in education. She further alleges that her parents had compelled her to enter into marriage on 14.12.2015 with one Sunil Kumar, who works in Haryana police, however, on account of matrimonial differences,

she has renounced her relationship and severed her ties with her husband and came back and started living with the private respondents. It is alleged that on account of ill-treatment and harassment, she was forced to leave her home having been fed up with the conduct of the private respondents on 17.04.2016. It was through the course of time, she came in contact with the petitioner No. 1-Satnam, who on being her acquaintance and friend, upon knowing her sordid tale came to her rescue and saved her from the clutches of the private respondents. It is alleged that as a revenge, father of petitioner No.2-Ritu managed to register an FIR against the petitioners on the false and fabricated grounds by misusing his position and high connections. It is alleged that since petitioner No.2-Ritu is a major and on her own had moved out of her parental home, thus, no case of either kidnapping or abduction or such an act for the purposes of her marriage is made out and rather on account of threat to her life, she does not want to live with the private respondents and has renounced all her relations with them.

Upon reply the stand of the respondent/State is that they had taken the plea that the FIR in question had got registered against petitioner No.1, which is still under investigation but during the submissions, learned State counsel on instructions from ASI Sunil has stated that the untraced report has been prepared and is lying in the office and that the petitioner No.2 had filed earlier a CRM M-14855 of 2016 before this Court whereby the order of protection was passed by this Court and further that on the receipt of the complaint of the petitioner an FIR against the private respondents was got lodged by

way of FIR No. 284 dated 11.05.2016 under Sections 323, 376, 511 and 506 IPC with Police Station City Gohana, which is under investigation and rather termed it to be a counter blast to the first FIR. It is the categoric stand of the State that petitioner No.1-Satnam has abducted and enticed petitioner No.2-Ritu and had taken her away illegally and, thus, has committed an offence and sought dismissal of the petition.

Appreciating the submissions of the two sides, it is well established on the records by way of Annexure P-2 whereby complaint had been filed against the private respondents by petitioner No.2-Ritu where serious allegations of exploitation by her family has been brought on the record by the girl. The petitioner in her statement made before this Court has categorically made it clear that on account of her matrimonial differences she had left her husband and started living with her parents and subsequently on developing differences with her parents left the house on her own. Her statement made in the Court together with documentary proof Ex.C1 bears out that the petitioner No.2-Ritu is a major aged around 23 years. To the specific query of the Court, learned State counsel could not substantiate by what means there is any prima facie evidence that daughter of the complainant Subhash Chander (respondent No.2), namely, Ritu petitioner No.2 has ever been kidnapped or abducted being a major and a grown up lady of 23 years of age, who had volunteered and appeared before this Court to make a statement to refute allegations of her father that she has left her home on her own. Thus, the very element of kidnapping apparently does not convince this Court. Furthermore, by what means there is any

proof and evidence of kidnapping, abduction or inducing a woman to compel her marriage or her confinement against her wishes and therefore the very element of Sections 364, 364-A, 365, 368 and 366 IPC apparently does not subsist much less under Section 367 IPC when the girl is before this Court and cannot be presumed to be kidnapped or abducted for any motivated purposes detailed in Section 367 of the IPC and, therefore, attraction of Section 368 of IPC is even far fetched one.

Though on behalf of the complainant some semblance of resistance have been sought to be made before the Court on the grounds that the petitioner No.2 has been taken away from her parental house by petitioner No.1 does not appeal to this Court, especially, when the girl has appeared before this Court and made her statement and denounced the allegations levelled in the FIR.

Thus, from this all, the records and stands of the two sides and the statement made before this Court by Ritu, so claimed to be the victim by the complainant's father, the registration of the present FIR No. 250 (Annexure P-1) dated 17.04.2016 under Sections 323, 363 and 366 of IPC and investigation therein certainly are clearly and purely misuse of the process of the Court necessitating exercise of inherent powers of this Court under Section 482 Cr.P.C. to undo injustice and misuse of the process of law. What it appears that registration of the present case is nothing but by way of revenge and vengeance against the daughter by the family of the girl for a motivated cause and, thus, compelling her to tow their line. Being a grown up mature lady, she has a right to live as per her own way and

means and cannot be compelled to be subdued by the parents as it would be in violation and against the spirit of Article 21 of the Constitution of India. Thus, there is no useful purpose in pursuing the investigation of the present case as it would be a futile effort wasting the precious time of the Court. Thus, exercising powers under Sections 482 Cr.P.C., the FIR No. 250 dated 17.04.2016 registered under Sections 323, 363 and 366 of IPC, Police Station City Gohana (Annexure P-1) and all consequences arising out of the same qua the petitioners are hereby quashed.

The petition stands disposed off accordingly.

January 24, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No