

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

**CRM M-9822 of 2017 (O&M)
Date of Decision: April 02, 2019**

Kuldeep SinghPetitioner

Versus

State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Ram Bilas Gupta, Advocate and
Mr. Sarvesh Kumar Gupta, Advocate
for the petitioner.

Mr. Avtar Singh Sandhu, Addl. A.G., Punjab.

FATEH DEEP SINGH, J. (Oral)

Petitioner-Kuldeep Singh has moved this petition under Section 482 Cr.P.C. seeking quashment of FIR No. 02 dated 04.01.2016 under Sections 363, 366-A and 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Khem Karan, District Tarn Taran.

The grounds canvassed by the petitioner are that the petitioner and daughter of the complainant Kaku Singh were having love affair and on account of their deep involvement with each other on 1.1.2016 they had undergone marriage and has sought to claim that

being legally wedded husband and wife. Subsequently, out of this wedlock a child has been born to them and the FIR being an act of vengeance by the disgruntled father of the girl on distorted facts needs to be quashed.

Upon notice the complainant did not put in appearance whereas the State has filed a reply by way of affidavit of Shri Sulakhan Singh, Deputy Superintendent of Police, Valtaha at Bhikhiwind. It is the stand of the prosecution that during the course of investigations on 19.01.2016, the petitioner was arrested and from his custody, the prosecutrix was recovered and that the girl was a minor at the time of the claimed marriage and has sought to rake up the plea that in view of the age of the girl and the petitioner, the marriage was violative of the provisions of the Prohibition of Child Marriage Act 2006 and on facts had accepted the stand of the petitioner as to the *inter-se* relations and the birth of the child. The prosecution claimed that petitioner had abducted the minor girl out of lawful guardianship of the father and, thus, has allured her into this relationship and had even gone to the extent that it was a serious matter and therefore sought dismissal of the petition.

Heard Mr. S.K. Gupta, Advocate for the petitioner, Mr. Avtar Singh Sandhu, Addl. A.G., Punjab and perused the record.

The victim has appeared before this Court and has been identified by HC Harjinder Singh. In her statement made before this

Court, the girl has stated that since the petitioner and she were in a relationship and are being opposed by her family members and therefore, they solemnized a marriage by following due customs and out of this wedlock a minor son aged 2 years namely Avtar Singh had been born to them and has vouched for the photographs numbering two (Annexure P-1)

Appreciating the submissions of the two sides, the allegations bear out prior to the present petition another application was filed by the couple before the Human Rights Commission Punjab and when the girl was produced before the SDJM on 29.02.2016 she had made a statement before the Court that she be permitted to go to the family of her in-laws and she was living a blissful married life with her husband. It is not displaced during the course of arguments by the learned State counsel that the couple had married with each other against the wishes of the family and to support their contention, the petitioner has placed on record the photographs Annexure P-1 numbering two. Furthermore, the claim that the girl is major is illustrative from her matriculation certificate showing her date of birth as 28.02.1997 and by these means on the date of occurrence, i.e. 04.01.2016, she is almost major. The girl is admittedly residing at the house of her in-laws, i.e. house of the parents of the petitioner where she is nurturing her small son, thus, from this all and the circumstances including statements of the girl so stated to be the wife of the

petitioner is an impelling circumstance for this Court to exercise its inherent powers under Section 482 Cr.P.C. as there are special circumstances to meet the ends of justice in such a situation. If the petitioner is made to face ordois of trial where the wife is not going to support the prosecution and as is stated by the counsel for the petitioner Mr. S.K. Gupta, even the father of the girl, the present complainant has gone back from his complaint and ironed out the differences. Therefore, in the light of the same, the continuity of the proceedings against the petitioner would not lead to any tangible conclusion and rather would be a futile exercise wasting the precious time of the Court, besides disrupting martialties and affecting the minor progeny thus, invoking the provisions of Section 482 Cr.P.C. Therefore, this Court deems it imperative to quash the FIR No. 02 dated 04.01.2016 under Sections 363, 366-A and 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Khem Karan, District Tarn Taran and all the consequential proceedings arising therefrom.

April 02, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No