

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

CRM-M-40741 of 2019.

Decided on:- November 05, 2019.

Ravinder Yadav.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Umesh Kumar Kanwar, Advocate
for the petitioner.

Ms. Priyanka Sadar, A.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

The petitioner has file this petition under Section 482 Cr.PC so as to set aside the order dated 06.09.2019 (Annexure P-2) passed by learned Additional Sessions Judge, Faridabad, whereby, while considering the statement of the prosecutrix made before that Court and noticing the apprehension shown by her, the prosecutrix was ordered to be kept in Open Shelter, Sector-8, Faridabad till the adjourned date i.e. 01.10.2019.

Learned counsel for the petitioner has argued that the petitioner is father of the prosecutrix and her date of birth is 05.05.2002. Therefore, she is minor. However, on 13.10.2018, she was enticed away by the accused Akash with an intention to marry her despite she being minor, for which an FIR No.105 dated 13.10.2018 under Sections 346, 363 and 366-A IPC was

registered against the accused at Police Station Palla, District Faridabad. The prosecutrix was recovered on 14.10.2018 from Delhi, where the accused was also arrested and was sent to judicial custody.

He has further contended that on 15.10.2018, the prosecutrix had made a statement before learned Judicial Magistrate 1st Class, Faridabad stating therein that she wants to stay with her family till she attains the age of 18 years. Thus, the impugned order dated 06.09.2019 passed by learned Additional Sessions Judge, Faridabad sending the prosecutrix to the Open Shelter, Sector-8, Faridabad is not sustainable and her custody should be handed over to him being father of the minor.

Learned State counsel has submitted that the prosecutrix has made a statement before the trial Court on 06.09.2019 showing her date of birth as 10.05.2001, wherein she has stated that she does not want to return the fold of her parents as they have threatened to kill her in case she depose in the case in favour of the accused.

I have heard learned counsel for the parties.

Vide order dated September 23, 2019, while issuing notice of motion in the case, the police was directed to produce the prosecutrix in Court and thereafter, she was produced in Court on 23.10.2019, when the following order was passed by this Court:

“Pursuant to the order dated 17.10.2019 passed by this Court, the detenue has been produced in Court.

In order to ascertain her wishes as to whether she intends to go with the petitioner, this Court has requested Ms. Sushma Suman, Advocate to interact the detenue in the chamber of this

Court. After interaction, she informed that the detenue is not inclined to go with the petitioner. However, thereafter, the case was passed over. When this case was again taken up for hearing, a request was made by the counsel for the petitioner to allow the petitioner to meet his daughter, who is present in the Court. Accordingly, the detenue was asked to meet the petitioner.

At this stage, learned State counsel has informed this Court that now the detenue has shown her inclination to go with the petitioner.

In view of the stand being changed by the victim, this Court is adjourning the case to some other date to ascertain her wish.

Adjourned to 05.11.2019.”

On 23.10.2019, firstly, the prosecutrix intended not to go with the petitioner, but later on, she had shown her inclination to go with the petitioner. It is for this reason the case was adjourned for today, so that the prosecutrix may settle down and give a serious thought about her decision.

Today, the petitioner and the prosecutrix are present in Court. This Court has requested Ms. Sumiti Arora, Advocate to interact with the prosecutrix in the chamber of this Court. Ms. Sumiti Arora, Advocate after interacting with the prosecutrix has informed this Court that during interaction, the prosecutrix has stated that she is ready to go with her father (petitioner herein) provided the petitioner undertakes that on her attaining the age of majority, he (petitioner) will solemnise her marriage with the boy of her choice.

Accordingly, this Court has directed the petitioner to file an affidavit in terms of the aforesaid statement made by the prosecutrix during her interaction with Ms. Sumiti Arora, Advocate.

An affidavit of even date has been filed by the petitioner, wherein he has deposed that he is willing and ready to consent the detenue conditions and choices on her attaining the age of majority. The affidavit is taken on record.

In view of the inclination shown by the prosecutrix and the affidavit furnished by the petitioner, it is ordered that the custody of prosecutrix be handed over to the petitioner, who is father of the prosecutrix.

It is made clear that the prosecutrix shall not be harmed by the petitioner in any manner. The SHO/other police official shall make regular visit to the house of the petitioner, so as to ascertain the well-being of the prosecutrix every month and will record her statement accordingly, till she attains the age of majority.

Disposed of.

November 05, 2019

Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No