

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

CRM-M No.46222 of 2016
Date of decision: 24th October, 2019

Ankaj Saini

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Amandeep S. Manaise, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab
for the respondent/State.

None for respondent No.2.

Mr. Gagandeep S. Manku, Advocate for respondent No.3.

FATEH DEEP SINGH, J. (ORAL)

By this petition preferred under Section 482 Cr.P.C. seeking quashment of FIR No.62 dated 10.09.2016 under Sections 363, 366A, 376, 120-B IPC read with Section 4 of the Protection of Children from Sexual Offences Act, 2012 registered with Police Station Division No.1, District Pathankot (Annexure P1) has put a societal challenge to the plight and saga of run-away couples. How on account of our society still pre-dominantly anarchist where male chauvinism coupled with feudalism are largely at play and, thus, are responsible for governing even the marital preferences of grown-up children. Precisely, this is the sad story of petitioner-Ankaj Saini and his wife respondent No.3-Riya Pathania. In the light of contentions and facts brought to the notice of this Court, Riya

Pathania respondent No.3, who happens to be daughter of respondent No.2-Rajinder Singh, was in a relationship with the petitioner, which was strongly opposed by the parents of the girl and subsequently, on account of an incident, FIR (Annexure P1) was registered by the father of the girl when she was a minor aged around 17 years and 10 months, and the petitioner was arrested on 18.09.2016. The girl, after attaining the age of majority on 16.11.2016, made a statement before learned Magistrate, on the basis of which the petitioner was released on regular bail. Meanwhile, by another quirk of fate the couple is alleged to have entered into a wedlock on 07.12.2016 regarding which copy of the marriage certificate (Annexure P6) and photographs (Annexure P7) have been placed on the record. It is in the background of this, the couple has sought quashment of the FIR. Learned counsel for the petitioner Mr. Amandeep Singh Manaise, Advocate, to facilitate this quashment petition, has placed on record statement of respondent No.3-Riya Pathania as Annexure P9 to the effect that she has voluntarily entered into a wedlock with the petitioner and that she was a major and out of this wedlock the couple is blessed with a female child and that she is happily living in her matrimonial home. Copy of the birth certificate of the female child namely Natasha Saini is also annexed as Annexure P8.

Upon hearing at length Mr. Amandeep Singh Manaise, Advocate representing the petitioner; Ms. Sakshi Bakshi, Assistant Advocate General, Punjab on behalf of respondent No.1/State and

Mr.Gagandeep Singh Manku, Advocate for respondent No.3. Though the State has fairly conceded the factual situation and has not opposed the grant of relief keeping in view the humanitarian angle however, there is no representation on behalf of the complainant/respondent No.2, father of the girl.

Admittedly, there has been a love affair between the petitioner and respondent No.3 while they were in a relationship and after registration of the FIR by respondent No.2 against the petitioner under Sections 363, 366-A, 376, 120-B IPC read with Section 4 of the POCSO, when the girl attained the age of majority both of them have entered into a wedlock and are blessed with a female child out of the said wedlock, are matters which have great bearing on the case of the two sides. Had it been a pure simplicitor case as detailed in the FIR (Annexure P1) and not a case as the one arising out of matrimony ties, this Court would have been too reluctant to interfere. The Courts are tools of social justice not only to dispense justice but also to ensure that such an invocation by a disgruntled father, who certainly have an axe to grind, has its serious repercussions on the matrimonial life not of the couple only but of the tender child born out of this relationship. This Court in the exercise of its powers under Section 482 Cr.P.C. taking a pragmatic approach to meet the ends of justice, to further ensure that this harassment is put to an end and thus this prosecution of the petitioner does not become a convenient tool in the hands of respondent No.2 so as to spoil the very prospects of

this matrimony, deems its duty to show indulgence and, thus, retrieve this relation which will otherwise go to the brink of disaster. The Hon'ble Delhi High Court in Full Bench view reported in "**2012 (4) RCR Civil 821, Court on its own motion (Lajja Devi) Vs. State**", justifies invoking these inherent powers, though this Court does not encourages such cases of couples which are a cause for social turmoil but having regard to the fact that even this Court feels that the case of the petitioner stands qualified for the eventualities laid down by the Hon'ble Apex Court in the case of "**State of Haryana and others Vs.Ch. Bhajan Lal and others, 1992 AIR (SC) 604**". More so, this prosecution would not lead to any tangible results and would only be a futile exercise. Thus, exercising these powers, the instant petition stands allowed thereby quashing the FIR (Annexure P1) along with all consequential proceedings arising out of the same.

(FATEH DEEP SINGH)
JUDGE

October 24, 2019

rps

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No