

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCN No. 3797 of 2019

Date of Decision: 09.12.2019

Irshad

.....Petitioner

Versus

Sangita Kalia and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. M.D. Khan, Advocate
for the petitioner.

Mr. Sandeep S. Mann, Sr. DAG Haryana.

AVNEESH JHINGAN, J.(oral)

CRM-M-29366 of 2018 was filed by Sayada W/o Aarif D/o Sarif and Aarif S/o Fateh Mohd. seeking protection as both of them had married against wishes of families. Respondents No. 4 to 6 (in the criminal petition), raised an objection that Aarif was already married and he had two children from the first wife.

On 17.9.2018 following order was passed:

“Learned counsel for respondents submits that petitioner No.2 Aarif is involved in FIR No.55 dated 20.6.2018 under Section 6 of the Protection of Children From Sexual Offence Act, 2012 (for short, ‘POCSO Act’), read with Section 506 IPC registered at Women Police Station, Mewat District Nuh and in FIR No.150 dated 14.7.2018 under Sections 363 and 366-A IPC, registered at Police Station Nagina, District Nuh. It is further stated that petitioner No.1 herself has got the FIR No.55 dated 20.6.2018 registered and her mother got another FIR No.150 dated 14.7.2018 registered against petitioner No.2.

Though on the last date of hearing, it was directed that petitioners shall remain present in the Court, learned counsel for the petitioners submits that petitioner No.1 is carrying pregnancy of two months, therefore, she is unable to come. However, considering the fact that petitioner No.2 is not present in the Court and is an accused in two FIRs, as noticed above, no ground for providing any protection to petitioner No.2 is made out and the present petition qua petitioner No.2 stands dismissed.

In the meantime, Superintendent of Police, Mewat/Palwal-respondents No.2 and 3, are directed to look into the grievances of petitioner No.1. It is also directed that statement of petitioner No.1 be again recorded before the Judicial Magistrate 1st Class, in the presence of respondents No.5 and 6 after holding a due counselling by a lady counsellor.”

Again on 25.10.2018, the following order was passed:-

“Learned State counsel has placed on record a photocopy of the statement dated 10.10.2018 recorded by the Judicial Magistrate 1st Class, Nuh/Mewat, in which petitioner No.1 has stated that she wants to stay with her husband i.e. petitioner No.2. The Judicial Magistrate 1st Class, Nuh/Mewat has also certified that she has explained to petitioner No.1 that she is not bound to make any statement and if she makes any statement, it may be used as evidence against her.

A perusal of the aforesaid statement shows that the same was recorded in presence of ASI Saroj and in presence of respondents No.5 and 6, i.e. Irshad and Islam, who also put their thumb impressions before the Magistrate.

List again on 6.3.2019.

In the meantime, Ashok Kumar-Investigating Officer, Police Station Hansanpur, is directed to arrange a meeting of respondents No.5 and 6 with petitioner No.1 on 20.12.2018.

Interim directions granted to petitioner No.1 vide order dated 17.9.2018 shall continue.”

Pursuant to the said order, on 25.10.2018 learned State counsel produced a photocopy of statement of Sayada recorded by Judicial Magistrate Ist Class, Nuh/Mewat, on 10.10.2018 in which she stated that she herself went to stay with her husband. The statement was made in presence of ASI Saroj and in presence of respondents No. 5 and 6 (in the criminal petition) i.e. Irshad and Islam, as their thumb impressions were put before the Magistrate.

The Investigating Officer was directed to arrange meeting of respondents No. 5 and 6 with petitioner No.1. The said meeting could not be arranged, the petition was disposed of on 6.3.2019 issuing directions to Superintendent of Police, Mewat/Palwal, to look into the grievance of respondents No. 5 and 6 as and when the application is moved by them to arrange meeting with petitioner No.1.

The present petition is filed pleading wilful disobedience of directions of this Court.

Reply of Mr. Narender Bijarniya, IPS, Superintendent of Police, Palwal, filed today in Court is taken on record and copy supplied to counsel for petitioner.

Alongwith reply, statement of Sayada dated 10.3.2019 is annexed. She has stated that she is living happily with her husband and she has a seven months old daughter. She does not want to have any concern

with her parental family. She further stated that she does not want to meet

her maternal uncle and brother. She stated that no pressure is made on her to meet her maternal uncle and brother.

Learned counsel for the petitioner submits that it is only for the well being that brother of Sayada want to meet her.

In the present case, as Sayada is living in her husband's house and is having a daughter. She does not want to meet her maternal uncle and brother, her statement was recorded before Judicial Magistrate in presence of her brother.

At this stage, learned counsel for the petitioner seeks liberty to avail remedy in accordance with law for redressal of surviving grievance.

Disposed of with liberty as prayed for.

09.12.2019
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable:	No