

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202

CRM-M-14255-2013

Date of Decision:27.01.2020

Pawan Kumar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

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

**Present: Mr. Anil Chaudhary, Advocate,
for the petitioner.**

Ms. Gaganpreet Kaur, AAG, Haryana.

**Mr. Deepak Kundu, Advocate,
for respondent No.2.**

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.196 dated 24.03.2012 under Sections 363, 366-A, 420, 34 IPC, registered at Police Station City, Sirsa (Annexure P-1) (subsequently charges were framed under sections 363, 366, 468 IPC) and all other consequential proceedings arising therefrom.

Learned counsel for the petitioner has argued that initially, FIR was registered for the aforesaid sections and after investigation challan was presented and charges were framed under Sections 363, 366, 468 IPC and in this manner, trial is pending in the case for these offences.

Briefly stated that the aforesaid FIR was registered at the behest of respondent No.2-Neelam Rani, the complainant in the case. As per the

FIR, petitioner has enticed the daughter of respondent No.2 on the pretext of

solemnizing marriage with her and daughter of the complainant whose date of birth is 15.09.1994 has taken away with her 10 tolas of gold, cash of Rs.50,000/- and other documents in her possession. The fact that her daughter has been enticed by the accused has come to their notice when the petitioner and Amita have filed the protection-petition before the Sessions Judge, Sirsa and while seeking such protection, petitioner has filed fake and forged certificate of higher secondary education, Delhi, allegedly issued on 19.06.2008, whereas Amita has passed her middle class examination of Haryana School Education Board Bhiwani on 30.04.2009 and she has passed 10+2 examination in the year 2011.

At this stage, learned counsel for the petitioner has argued that the petitioner and Amita are staying together as husband and wife as they have solemnized marriage on 20.03.2012 and they have been blessed with a daughter on 13.11.2014. He submits that once the parties are staying together as husband and wife, even if on the relevant date when the petitioner has solemnized marriage with Amita, she was minor, FIR can still be quashed. He refers to the judgment passed by this Court in **Dharamvir alias Sabhi Versus State of Punjab and others, 2011(5) R.C.R. (Criminal) 700**, to contend that at the time when the girl of 17½ years got married with a person on her free will but against the wishes of her parents, but the marriage solemnized with the consent of the girl and she is residing with her husband and both are leading happy married life, no offence under Sections 363, 366-A IPC is made out against the accused.

Reliance has also been placed on the judgments passed in **Kapil Dev Versus State of Haryana and others, 2011(1) R.C.R. (Criminal) 376, Goldi @ Kulvinder Versus State of Haryana and**

others, 2010(1) R.C.R. (Criminal) 371 and Kiranjit Kaur and others
Versus State of Punjab and another, 2010(1) R.C.R.(Criminal) 322.

Pursuant to the notice of motion issued in the case vide order dated 04.05.2013, Mr. Robin Dutt, Advocate, has put in appearance on behalf of respondent No.2 . However, on 16.11.2016, he has submitted to this Court that brief has been taken from him by his client and in this manner, he has no instructions to appear in the case. Accordingly, fresh notice was issued to respondent No.2.

On September 04, 2019, this Court has appointed Mr. Deepak Kundu, Advocate, as legal aid counsel to assist in the matter as respondent No.2 did not appear despite having been served in the case, which is apparant from the report dated 18.07.2017 submitted by the office.

Learned State Counsel, on instructions from ASI Atma Ram, submits that challan in the case has been presented, charges have been framed and the matter is pending before the trial court for adjudication.

Heard.

Noticing the fact that petitioner-Pawan Kumar and Amita, daughter of the complainant-respondent No.2 are staying together as husband and wife and they have been blessed with a daughter and further repeatedly notices have been issued to respondent No.2, but she has not appeared, this Court finds that continuation of criminal proceedings would adversely affect the married life of the petitioner as well his wife Amita.

Having regard to the judgments passed in **Dharamvir alias Sabhi, Kapil Dev, Goldi @ Kulvinder** and **Kiranjit Kaur and others'**cases(supra), this Court finds that when the petitioner and Amita are staying together as husband and wife, they have been blessed with a

daughter, no useful purpose would be served to continue with the criminal proceedings before the trial Court in the instant F.I.R. as it will disturb the matrimonial life of the young couple. Even the child born from this marriage would also have adverse effect of the litigation.

Accordingly, the present petition is allowed and FIR No.196 dated 24.03.2012 under Sections 363, 366-A, 420, 34 IPC, registered at Police Station City, Sirsa (Annexure P-1) (subsequently charges were framed under sections 363, 366, 468 IPC) and all the consequential proceedings arising therefrom, are hereby quashed qua the petitioner.

January 27, 2020
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No