

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

CRM-M-45617 of 2017 (O&M)

Date of Decision: February 04, 2020

Jony Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ravi Malhotra, Advocate
for the petitioner.

Mr. Davinder Bir Singh, DAG Punjab.

Mr. Ashish Bakshi, Advocate
for respondent No.3.

Petitioner and respondent No.3 in person.

JAISHREE THAKUR, J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.54 dated 29.09.2017 registered under Sections 363, 366-A of Indian Penal Code at Police Station Taragarh, District Pathankot (Annexure P/1) and all subsequent proceedings arising therefrom.

2. The FIR in question came to be registered by the complainant-respondent No.2 namely Kishan Chand alleging therein that on 25.09.2017 the petitioner-Jony Kumar herein took away her minor daughter on the pretext of marriage by inducing her.

3. On the other hand, the version of the petitioner-Jony Kumar is

that in fact, he and respondent No.3-Poonam (daughter of respondent No.2) were in love with each other, but the parents of respondent No.3 were not happy with this relationship. Due to this reason, the petitioner and respondent No.3 ran away from their houses and solemnized a marriage on 08.10.2017 against the wishes of respondent No.2. It is submitted that respondent No.3 left her parents house with her own sweet will and after marriage, the petitioner and respondent No.2 are residing happily as husband and wife. It is urged that, under these circumstances, no offence under Sections 363, 366-A of IPC is made out against the petitioner. With these averments in the petition, quashing of the FIR has been prayed for.

4. Notice of the petition was issued to respondent No.2-complainant as well, however, despite service, he has chosen not to put an appearance before this court to contest the present petition.

5. Learned counsel appearing on behalf of the petitioner contends that the allegations as set out in the FIR are false and no offence is made out under Sections 363, 366-A of Indian Penal Code. It is also argued that continuation of the proceedings under the FIR would not serve any purpose, as the petitioner and respondent No.3 i.e. daughter of the complainant-respondent No.2 are residing together happily as husband and wife.

6. On the other hand, learned counsel appearing on behalf of respondent No.3-Poonam endorses the arguments advanced by counsel for the petitioner in totality.

7. Per contra, learned counsel appearing on behalf of the respondent-State, on instructions from the Investigating Officer opposes the quashing of the FIR, however, does not dispute the fact that the petitioner

and respondent No.3 are married and residing together.

8. Both the petitioner and respondent No.3 are present in the court today (duly identified by their respective counsels) and on the asking of the court, they stated at bar that they are residing happily as husband and wife.

9. In normal circumstances, the Court would not entertain a matter when the non compoundable offences are involved. In the instant case, a reading of the FIR would show that complainant-respondent No.2 alleged that his daughter i.e. respondent No.3 has been enticed away by the petitioner herein on the pretext of marriage. However, the fact is that respondent No.3 on her free will ran away with the petitioner from the house of complainant-respondent No.2 and thereafter, solemnized a marriage on 08.10.2017 and they are living together and living a happy life.

10. In a judgment rendered by the Hon'ble Supreme Court in ***Narinder Singh and others vs. State of Punjab and another, 2014(6) SCC 466***, the Hon'ble Apex Court has laid down certain principles and guidelines which should be kept in mind while quashing of FIRs pertaining to non-compoundable offence. For ready reference paragraphs No. 29.2 and 29.5 are reproduced as under :-

“29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure :

(i) ends of justice, or

(ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is

remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case.”

11. The factual matrix of the case is that complainant-respondent No.2 has not come forward to contest the present petition for quashing of the FIR whereas, the petitioner and daughter of the complainant i.e. respondent No.3 are already married with their own free will and living a happy life, so this court is of the considered view that the continuation of the proceedings under the FIR would be an abuse of the process of court and under the facts and circumstances of the present, the possibility of conviction is remote and bleak and continuation of criminal case would put the accused as well as daughter of the complainant to great oppression and prejudice and extreme injustice would be caused to them by not quashing the FIR. Reliance in this regard can also be placed upon the judgments rendered in ***Rukshana and another vs. Govt. of NCT of Delhi and others, 2007(3) RCR (Criminal) 542, Madan Lal and others vs. State of Punjab and another, 2017(3) RCR (Criminal) 403, Sh. Jitender Kumar Sharma vs. State and another, 2010(4) RCR (Criminal) 20, Gulam Rasul and others vs. State of Punjab and others, 2016(2) RCR (Criminal) 73 and Swaroop vs. State of H.P. and another, 2017(4) RCR (Criminal) 239.***

12. Therefore, while relying upon the ratio of the aforesaid judgments and to secure ends of justice, the present petition is allowed and the FIR No.54 dated 29.09.2017 registered under Sections 363, 366-A of Indian Penal Code at Police Station Taragarh, District Pathankot and all

subsequent proceedings arising out of the same are quashed qua the petitioner herein.

February 04, 2020
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No