

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

CRM-M-4737 of 2018 (O&M)
Date of Decision: February 4 2020

Rajan Sharma

...Petitioner

Versus

U.T. of Chandigarh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Anter Singh Brar, Advocate
for the petitioner.

Mr. Rajiv Sharma, APP, U.T., Chandigarh.

Mr. N.S.Kandhola, Advocate
for respondents No.2 and 3.

None for respondents No.4 and 5.

JAISHREE THAKUR, J.

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.155 dated 09.07.2017 registered under Sections 363, 366 of Indian Penal Code at Police Station Manimajra, U.T., Chandigarh (Annexure P/1) and all subsequent proceedings arising therefrom.

2. The FIR in question came to be registered by the complainant-respondent No.4 namely Munna Singh @ Brij Pal Singh alleging therein that the petitioner herein has kidnapped his daughter Monika on the pretext of marriage.

3. On the other hand, the version of the petitioner-Rajan Sharma is

that in fact, he and respondent No.2 Monika (daughter of complainant-respondent No.4) were in love with each other. As this relationship came to the knowledge of their parents, they eloped together on 08.07.2017 and solemnized a marriage on 11.07.2017 with their sweet will at Shri Balaji Jyotesh Mandir, M.D.C. Panchkula. The petitioner produced on record Marriage Certificate and photograph of the marriage as Annexures P-2 and P-3 respectively. It is further submitted that respondent No.3-Anita herein, mother of respondent No.2-Monika, filed a Criminal Writ Petition No.883 of 2017 before this court to produce respondent No.2-Monika in the court, pursuant to which, respondent No.2-Monika appeared before this court and stated that she is residing with her husband (the petitioner herein) and in-laws and she has come to the court along with her mother-in-law. It is further stated that respondent No.2-Monika has also sent applications to the Superintendent of Police, Chandigarh (Annexure P-7) and SHO, Police Station Manimajra, Chandigarh (Annexure P-8) for cancellation of the FIR in question. It is further submitted that subsequent thereto, the matter has been compromised between the parties vide Annexure P-9. With these averments in the petition, quashing of the FIR has been prayed for.

4. Notice of the petition was issued to respondent No.4-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 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.2 i.e. daughter of the complainant-respondent No.4 are residing together happily with the child born out of this wedlock.

6. On the other hand, learned counsel appearing on behalf of respondents No.2 and 3 i.e. the prosecutrix and her mother 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.2 are married and residing together and a child has born out, out of this wedlock.

8. In normal circumstances, the Court would not entertain a matter when the non compoundable offences are involved. However, in the instant case, a reading of the FIR would show that complainant-respondent No.4 alleged that his daughter i.e. respondent No.2 has been kidnapped by the petitioner herein on the pretext of marriage. However, the facts that respondent No.2 on her free will ran away with the petitioner from the house of complainant-respondent No.4 and thereafter, solemnized a marriage on 11.07.2017. Subsequent to that, a child has also born out of the wedlock of petitioner and respondent No.2 and they are living together and living a happy life.

9. 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.”

10. The factual matrix of the case are that complainant-respondent No.4 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.2 are already married with their own free will and living a happy life and a child has also born out of this wedlock. Moreover, respondent No.3 i.e. mother of respondent No.2 has appeared before this court, pursuant to the notice and filed a reply in support of the petitioner and stated therein that her daughter i.e. respondent No.2 and the petitioner herein are residing together happily and in fact, the matter stands compromised between the parties vide Annexure P-9. 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 cases 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 has also been 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*.

11. 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.155 dated 09.07.2017 registered under Sections 363, 366 of Indian Penal Code at Police Station Manimajra, U.T., Chandigarh and all subsequent proceedings arising out of the same are quashed qua the petitioner herein.

February 4th 2020

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes
Yes/No