

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

CRM-M-8571 of 2018 (O&M)
Date of Decision: January 21, 2020

Beeru

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R.K. Arya, Advocate
for the petitioner.

Mr. Davinder Bir Singh, DAG Punjab
for respondent No.1.

None for respondent No.2, despite service.

Mr. Sukhveer Kaur, Advocate
for respondent No.3.

JAISHREE THAKUR, J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.103 dated 16.07.2015 registered under Sections 363, 366-A, 120-B of Indian Penal Code at Police Station Ajnala, District Amritsar Rural (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 Ninder Singh alleging therein that on 14.07.2015 at about 8.00 a.m., his daughter-in-law informed him telephonically that Aman, his younger daughter, was missing from the house, on this, he returned to this house and started searching for his daughter here and there

as well as in relatives, but could not find her. The complainant has further submitted in the FIR that Beeru had enticed away his daughter Aman on the pretext of marriage in connivance with his mother Heera.

3. On the other hand, the version of the petitioner-Beeru is that in fact, he and respondent No.3-Aman (daughter of respondent No.3) were in love with each other and he along with his parents also approached the parents of respondent No.3 with the proposal of marriage, but the parents of respondent No.3 refused the proposal, as the parents of respondent No.3 wanted to marry their daughter with the boy of their own choice. Due to this reason, the petitioner and respondent No.3 ran away from their houses and solemnized a marriage by way of Anand Karz on 13.07.2015 at Gurudwara Sahib, Nanakpura near Simran Palace, Ajnala Road Amritsar with their free will, apart from filing a petition for protection before the court of District and Sessions Judge, Amritsar. After solemnizing the marriage, the petitioner and respondent No.3 have been blessed with a girl child and they are residing together and leading a happy life. 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, 120-B 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 with the daughter born out of this wedlock.

6. On the other hand, learned counsel appearing on behalf of respondent No.3-Aman 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 and a girl 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.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 facts 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 13.07.2015 and also sought protection by filing a petition in the court of District and Sessions Judge, Amritsar. Subsequent to that, a female child has also born out of the wedlock of petitioner and respondent No.3 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.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 and a child has also born out of this wedlock, 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.103 dated 16.07.2015 registered under Sections 363, 366-A, 120-B of Indian Penal Code at Police Station Ajnala, District Amritsar Rural and all subsequent proceedings arising out of the same are quashed.

January 21, 2020

vijay saini

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes
Yes/No