

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

Crl. Misc. M 34728 of 2019 (O&M)

Date of decision: 24.1.2.2020

Deepak

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Santosh Bhardwaj, Advocate
for the petitioner.

Ms. Trishanjali Chopra, AAG, Haryana.

Mr. Gaurav Jangra, Advocate,
for respondent No.2.

JAISHREE THAKUR, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking for quashing of FIR No. 83 dated 30.1.2018 (Annexure P/1) registered under Sections 363, 366-A IPC at Police Station Karnal City, District Karnal and all subsequent proceedings arising therefrom.

The facts, in brief, are that the petitioner—Deepak and Priyanka, daughter of respondent No.2—complainant were known to each other and they fell in love and ultimately they got married on 10.2.2018 in Delhi against the wishes of the father of Priyanka by running from her house. Consequently, respondent No.2 lodged the aforesaid FIR against the

petitioner.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case as no offence is made out against him. Petitioner No.1 and daughter of respondent No.2 got married out of their sweet will and they are living happily and are enjoying the marriage without any threat or interference from anyone and out of this wedlock a child has born. It is argued that keeping in view the fact that petitioner and Priyanka are happily married, continuance of the proceedings under the FIR would amount to abuse of process of law.

I have heard learned counsel for the parties and perused the documents.

In normal circumstances, the Court would not entertain a matter when offences are heinous in nature and against the public. In the instant case, the offence complained of is under Sections 363 and 366-A IPC which are offences of grave nature. In the eyes of law, the offence of kidnapping is serious and non-compoundable and the Courts should not in the ordinary circumstances interfere and quash the FIR registered. However, there are always exceptions to the normal rules and certain categories of cases, which deserve consideration specially when it is case of love affair between teenagers and on fear of the society and pressure from the community, one party alleges kidnapping, cases where the accused and the victim are well known to each other, and allegation of kidnapping is levelled only because the marriage was performed against the wishes of the parents.

In the instant case, a complaint came to be made in which it was

stated that accused-petitioner had kidnapped and allured Priyanka with an

intention to marry her.

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.”

In a decision of Hon'ble Supreme Court in Gian Singh Versus State of Punjab and another, 2012 (4) RCR (Cr.) 543, the law on the point has been summed up. It has been laid down that the inherent power of quashing an FIR with the High Court is of wide plenitude with no statutory limitation with the only requirement that it should be exercised to secure the ends of justice or to prevent abuse of the process of any court. It has also

been laid down that before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Exception has been held to be there in cases of offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity. It has been further held that in case the dispute is basically private or personal in nature and the parties have resolved their dispute, the criminal proceedings may be quashed. What has to be considered in this regard is the remote and bleak possibility of conviction.

Apart from that, in the instant case with the intervention of respectable persons, the dispute has been amicably settled between the parties and they have entered into a compromise.

Keeping in view the fact that the parties have entered into a compromise, they were directed to appear before learned trial court for getting their statements recorded in support of the compromise. In pursuance of the direction, a report has been received from the Chief Judicial Magistrate, Karnal, stating that the compromise arrived at between the parties is without any pressure or coercion from any one and the same is genuine one.

Learned Assistant Advocate General, on instructions from the Investigating Officer, admits the factum of compromise and submit that in case the parties have indeed settled their dispute, the State would have no objection to the quashing of the FIR, in view of the law laid down by the Hon'ble Supreme Court.

Consequently, for the reasons stated above and in view of the

law laid by the Hon'ble Supreme Court in the aforesaid cases, this petition is allowed and FIR No. 83 dated 30.1.2018 (Annexure P/1) registered under Sections 363, 366-A IPC at Police Station Karnal City, District Karnal and all subsequent proceedings arising therefrom are quashed.

The petition stands disposed of.

24.1.2020
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No