

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

Crl. Misc. M 41842 of 2019 (O&M)

Date of decision: 18.2.2020

Arjun and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Manoj K. Tanwar, Advocate
for the petitioners.

Mr. Tanuj Sharma, AAG, Haryana.

Mr. Sanawal Ali, Advocate,
for respondent No.2.

Petitioner No.1 and respondent No. 2
present in person.

JAISHREE THAKUR, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking for quashing of FIR No. 432 dated 9.8.2019 (Annexure P/1) registered under Sections 363, 366 and 120-B IPC at Police Station Hodal, District Palwal and all subsequent proceedings arising therefrom.

In brief, the facts are that on 9.8.2019, the aforesaid FIR came to be lodged by Deepak, father of respondent No.2 alleging that he has two sons and one daughter. His daughter Megha is aged about 17 years. About one year back there was a quarrel between his elder son Kapil with the accused persons in the FIR, but with the intervention of the respectable

persons of the Society the dispute had been resolved and since then he had enmity with the accused persons mentioned in the FIR. It was alleged that on 7.8.2019 at about 1.30-2 p.m. his wife Vimla Devi, along with his daughter Megha had gone to Hodal for treatment for his old mother, when the accused persons in connivance with each other had taken away his daughter. He apprehended that the accused persons may get his daughter married with Arjun.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case as no offence is made out against him. In fact petitioner No.1 and daughter of the complainant were having love affair and they were in relationship for the last about more than 1 years. It was stated that they wanted to get married, but the family of respondent No. 2 were not in favour of this marriage. Under these circumstances, petitioner No.1 and respondent No.2 got married on 7.8.2019 out of their sweet will and they are living happily and are enjoying the marriage without any threat or interference from anyone. It is argued that keeping in view the fact that petitioner No.1 and Megha 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 Megha with an intention to marry her, but as submitted the daughter of the complainant was a major on the day she voluntarily left with petitioner No.1 and solemnized a marriage on 7.8.2019 itself. She was already married and major on the day the FIR was registered i.e. on 9.8.2019. Therefore, the offence of Sections 363 and 366 IPC would not be made out.

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.

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. 432 dated 9.8.2019 (Annexure P/1) registered under Sections 363, 366 and 120-B IPC at Police Station Hodal, District Palwal and all subsequent proceedings arising therefrom are quashed.

The petition stands disposed of.

18.2.2020
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No