

CRM-M-18649-2019

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

CRM-M-18649-2019

Date of decision:10.11.2022

Balveer

...Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Shivoy Dhir, Advocate,
for the petitioner.

Mr. Gurlal Singh Dhillon, AAG, Punjab.

Mr. Arnav Kumar Sood, Advocate,
for respondent No.2.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks quashing of FIR No.381 dated 26.11.2018, registered at Police Station Sahnewal, District Ludhiana, under Section 346 IPC and all the subsequent proceedings arising therefrom.

Status report dated 03.07.2019, by way of affidavit of the ACP (South) Ludhiana, filed in the Registry, is taken on record.

Reply on behalf of respondent No.2, filed in the Registry, is taken on record.

Learned counsel for the petitioner contends that respondent No.2 got the above-noted FIR registered on 26.11.2018. In fact, respondent No.3-daughter of respondent No.2 got married to one Sani Deval Yadav,

but she had taken a Panchayati divorce from him; that the petitioner and

CRM-M-18649-2019

respondent No.3 developed liking for each other and underwent marriage with each other on 23.01.2019 as per Hindu rites against the wishes of the parents of the latter; that the petitioner and respondent No.3 also filed an application before learned Sessions Judge, Ludhiana, seeking protection of their life and liberty; that in the said application, the concerned police authorities had been directed to protect the life and liberty of the petitioner and respondent No.3 herein at the hands of respondent No.2 and others.

Learned counsel further contends that respondent No.3 also sworn an affidavit before the Executive Magistrate on 28.03.2019 to the effect that she had solemnized marriage with the petitioner of her own free will. He further contends that the petitioner has falsely been implicated in the present case and had never confined respondent No.3. The petitioner and respondent No.3 are residing together happily as husband and wife and out of the said wedlock, one child was also born.

On the other hand, learned State counsel and learned counsel for respondent No.2, submit that the marriage of the petitioner and respondent No.3 is not legal in the eyes of law for the reason that she had not taken any decree of divorce from the competent court qua her first marriage solemnized with Sani Deval Yadav. In support of his contentions, learned counsel for respondent No.2 relies upon the judgment rendered by the Hon'ble Supreme Court in Union of India & Ors. Vs. Ramesh Gandhi 2014(6) R.C.R. (Criminal) 224, and by the Coordinate Benches in Baldev Singh and another Vs. State of Punjab 2012(2) R.C.R. (Criminal) 533 and Narinder Singh Mangat Vs. Harjinder Kaur 2017(2) R.C.R. (Civil) 387.

CRM-M-18649-2019

I have heard the learned counsel for the parties.

As per the prosecution version, the petitioner had detained respondent No.3 forcibly. However, it is the specific case of the petitioner that he and respondent No.3 developed liking for each other and underwent marriage with each other on 23.01.2019 against the wishes of the parents of the latter. Moreover, the petitioner and respondent No.3 also filed an application before learned Sessions Judge, Ludhiana, seeking protection of their life and liberty, wherein the concerned police authorities had been directed to protect the life and liberty of the petitioner and respondent No.3 herein at the hands of respondent No.2 and others. Furthermore, respondent No.3 also sworn an affidavit before the Executive Magistrate on 28.03.2019 to the effect that she had solemnized marriage with the petitioner of her own free will. The petitioner and respondent No.3 are residing together happily as husband and wife and the couple has blessed with a child.

Thus, it cannot be said that there is any element of confining respondent No.3 by the petitioner. As per the proposition of law laid down in State of Haryana and others versus Ch. Bhajan Lal and others, 1992 AIR 604, powers under Section 482 Cr.P.C. can be exercised in exceptional circumstances.

So far as the judgments cited by the learned counsel for the respondent No.3, are concerned, the same are not applicable to the present case having distinguishable facts.

Keeping in view the fact that after solemnization of marriage, the petitioner and respondent No.3 are residing together as husband and

CRM-M-18649-2019

wife and out of the said wedlock, a child was also born, this Court finds that no useful purpose would be served in allowing the criminal proceedings to continue. Accordingly, the present petition is allowed. FIR No.381 dated 26.11.2018, registered at Police Station Sahnewal, District Ludhiana, under Section 346 IPC and all the subsequent proceedings arising therefrom, are quashed qua the petitioner.

10.11.2022
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No