

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH115**

118

**CRM-M-53287 of 2021  
Date of Decision: 10.08.2022**

**Gurdeep Singh**

**..... Petitioner**

**Versus**

**State of Punjab and others**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present: Mr. Pritam Singh Baath, Advocate,  
for the petitioner.

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**AMOL RATTAN SINGH, J. (ORAL)**

By this petition, quashing of FIR No.153, dated 05.06.2016, is sought, registered at Police Station City Khanna, District Ludhiana, for the alleged commission of offences punishable under Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006.

The FIR in question was registered in fact after a direction was issued by this court (co-ordinate Bench) in CRM-M-16693 of 2016, decided on 13.05.2016, titled as Vandana Rani and another v. State of Punjab and others, to conduct an investigation in the matter.

Pursuant thereto, it would seem from the vernacular version of the FIR (not translated by counsel for the petitioner), that it was opined by a District Attorney, that the matter should be investigated.

Thereupon, as per the petitioner, the FIR in question came to be registered, with the report under Section 173 of the Cr.P.C. also having been

presented to the competent court and with the trial underway.

Learned counsel points to what is reproduced in paragraph 11 of the petition which is shown to be the cross-examination of the investigating officer by counsel for the accused, and which is given in the petition as follows:-

“I have no investigated the fact whether either of the party to Crm. M No.16693 of 2016 was minor or not, without investigation of the fact of minority of the party of the FIR was registered by me, it is suggested that the FIR was wrongly registered against the accused without making the compliance of the order of Hon'ble High Court, it is wrong to suggest that I have deposed falsely.”

Firstly of course, not even a certified copy of the testimony of any person has been annexed with the petition.

Further, other than submitting that the petitioner and his wife having married each other of their own free will and they also now being the parents of a male child born on 17.08.2017, nothing substantial has been shown by way of any document, to this court, to the effect that at the time that the marriage was solemnized, the petitioner was of marriageable age in terms of Sections 2(a) & (b) of the Prohibition of Child Marriage Act, 2006.

Though learned counsel for the petitioner has relied upon a judgment of the Supreme Court in Nandakumar & Anr. v. State of Kerala & Ors. 2018(2) RCR (Civil) 899, it is seen that though in that case also the allegation was that the one of the parties to the marriage was below marriageable age in terms of Section 5 of the Hindu Marriage Act, 1955, there was no issue of any offence punishable under the provisions of the Prohibition of Child Marriage Act, 2006.

The Supreme Court held in that case that the parties to the marriage

had both attained majority and even if they had not entered into wedlock at the time that they actually married each other, they have a right to live together even outside wedlock by way of a live-in-relationship; and consequently the direction issued by the Kerala High Court in that case was set aside.

In the present case, obviously the FIR has been registered for violation of the provisions of the Prohibition of Child Marriage Act, 2006; and with it to be observed by this court that Section 15 of the said Act reads as follows:-

**“15. Offences to be cognizable and non-bailable.-** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be cognizable and non-bailable.”

Sections 9 & 10 of that Act read as follows:-

**“9. Punishment for male adult marrying a child.-** Whoever, being a male adult above eighteen years of age, contracts a child marriage shall be punishable with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both.

**10. Punishment for solemnising a child marriage.-** Whoever performs, conducts or directs or abets any child marriage shall be punishable with rigorous imprisonment which may extend to two years and shall be liable to fine which may extend to one lakh rupees unless he proves that he had reasons to believe that the marriage was not a child marriage.”

Thus, any offence committed on the provision of the Act of 2006 is a cognizable offence and consequently I would see absolutely no reason to quash the FIR without any proof whatsoever of the age of the petitioner at the time that he

was married.

The trial court already being seized of the trial, would naturally go into all evidence to determine as to whether any offence under the provisions of that Act was committed or not and thereafter comes to its own conclusion.

Consequently, without making any comment on the actual merits of the case, this petition is dismissed.

Naturally, all pleas as are legally available to the petitioner, will be taken by him and the contention of learned counsel for the petitioner in that regard is completely superfluous.

August 10, 2022  
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(AMOL RATTAN SINGH)  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether Reportable        | Yes |