

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

[124]

CRM-M-13735-2021

Date of Decision: 30.05.2023

VIKAS SHARMA @ VICKY

..... PETITIONER

Versus

STATE OF HARYANA AND ANOTHER

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Sachin Gupta Ladwa, Advocate for the petitioner.

Mr. Dimple Jain, DAG, Haryana.

Mr. Yowan Sharma, Advocate for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner, through instant petition, is seeking quashing of FIR No.66 dated 04.12.2017 under Sections 120-B, 323, 376(2) (n), 376(2)(f) and 506 IPC registered at Women Police Station Kaithal, District Kaithal (Annexure P-1) and all subsequent proceedings arising therefrom including charge-sheet dated 23.10.2019 (Annexure P-6) whereby the petitioner has been chargesheeted under Section 109 read with 376 IPC.

2. In compliance of the order dated 26.05.2023 of this Court, the petitioner has produced a certified copy of the order dated 02.07.2019 passed by Principle Judge, Family Court, Panchkula. The same is taken on record. Registry is directed to tag the same an appropriate place.

3. The brief facts of the case are that petitioner solemnized marriage with respondent No.2/complainant on 24.05.2017. Respondent No.2/complainant at the time of solemnizing marriage was major and she was IIIrd year student of L.L.B. After solemnizing marriage, they filed a petition before Sessions Court at Kaithal, seeking protection of their lives and liberty. The parents of the complainant filed *habeas corpus* petition before this Court, seeking custody of the complainant. The complainant was produced

before this Court and she made a statement that she wants to go along with her parents. Accordingly, custody of the complainant was handed over to her parents.

3. Impugned FIR came to be registered against petitioner and his brother. The police after completing investigation filed its report under Section 173 Cr.P.C. Trial Court vide impugned order dated 23.10.2019 framed charges against petitioner under Section 109 read with Section 376 IPC.

4. Learned counsel for the petitioner, *inter alia*, contends that there is no allegation of kidnapping or rape against the petitioner, however, he has been charged under Section 109 read with Section 376 IPC. The petitioner at the time of commission of the alleged offence was husband of the complainant who had executed an affidavit dated 24.10.2017 before Executive Magistrate, Ludhiana, deposing that she had lodged complaint against the petitioner on account of mis-understanding and under the pressure of her parents. She had further confirmed that petitioner has not committed alleged offence. He undertakes not to challenge decree of divorce and if he has already filed appeal, he shall not pursue.

5. *Per contra*, learned counsel for the complainant submits that Principle Judge, Family Court, Panchkula, vide judgment dated 02.07.2019 has ordered to dissolve marriage between the complainant and the petitioner. Decree of dissolution of marriage had been passed under Section 13(1)(i-a) of the Hindu Marriage Act, 1955. The complainant has no objection to quashing of impugned FIR, if petitioner agrees not to assail the decree of divorce and if he has already filed appeal, he shall withdraw the same.

6. Learned State counsel does not dispute the afore-stated facts and confirms that authenticity of affidavit of the complainant was verified by Investigating Officer and it was found that affidavit has been duly executed by

the complainant.

7. I have heard the arguments advanced by learned counsel for the parties and perused the record.

8. The conceded position emerging from the record is that the petitioner and respondent No.2/complainant solemnized marriage on 24.05.2017. The marriage was solemnized against the wish of the parents. They sought protection from Sessions Court at Kaithal. In the habeas corpus petition filed by parents of the complainant, the custody of the complainant was handed over to her parents. The complainant/respondent No.2 filed divorce petition which stands allowed and marriage stands dissolved. The petitioner has agreed not to challenge the decree of divorce and if he has already filed appeal, he would withdraw the same. The authenticity of affidavit executed by the complainant has been verified by Investigating Officer during the course of investigation.

9. In view of the decree of divorce, affidavit executed by the complainant and statement of both sides, the present petition deserves to be allowed and accordingly allowed. FIR No.66 dated 04.12.2017 under Sections 120-B, 323, 376(2) (n), 376(2)(f) and 506 IPC registered at Women Police Station Kaithal, District Kaithal (Annexure P-1) and all subsequent proceedings arising therefrom including charge-sheet dated 23.10.2019 (Annexure P-6) qua the petitioner are quashed.

It is made clear that both the parties shall abide by their statements.

(JAGMOHAN BANSAL)
JUDGE

30.05.2023
ANJAL

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No