

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
271 **CRM-M-18158-2023(O&M)**
Date of decision: 11.09.2023

Surjeet Singh

...Petitioner(s)

Vs.

State of Punjab & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Rahul Bhargava, Advocate
for the petitioner.

Mr. Kunwarbir Singh, AAG Punjab.

NIDHI GUPTA, J.

Present petition under Section 482 Cr.P.C. is filed seeking quashing of FIR No.157 dated 15.09.1999 registered under Sections 363, 366 and 120-B IPC at Police Station Sadar Muktsar, District Muktsar (Annexure P1) and subsequent proceedings arising there from.

2. Learned counsel for the petitioner submits that the petitioner has been falsely and illegally implicated in the present case registered at the instance of his father-in-law/respondent No.2 herein. It is submitted that it has been falsely alleged in the FIR that in the year 1999, the petitioner had enticed away the daughter of respondent No.2/respondent No.3 herein and therefore, present FIR has been registered on a false premise. Learned counsel states that petitioner and respondent No.3/daughter of respondent No.2, were in a love affair and after respondent No.3 had attained the age of majority, the petitioner had married respondent No.3 on 10.10.1999. Out of this wedlock, two children

were born on 17.05.2000 and 05.05.2004 and till date, they are all residing together as a happy family. In this regard, learned counsel refers to Aadhaar cards and birth certificates (Annexure P4 to P7) of the children.

3. It is submitted that accordingly, on the basis of above said facts, FIR (Annexure P1) was closed in the year 2010 itself as untrace report was prepared and submitted in the Court of learned Judicial Magistrate, 1st Class/Presiding Officer, Muktsar; wherein statement of the complainant/respondent No.2 was also recorded wherein he had stated that he was satisfied with the untrace report submitted by the police authorities. Learned counsel further submits that on the basis of the above said 'no objection' statement of the complainant, cancellation report was duly accepted by the Court of learned Judicial Magistrate, 1st Class, Muktsar on 20.03.2010 (Annexure P8).

4. it is further submitted that moreover, respondent No.3 had also given an affidavit dated 19.11.2021 (Annexure P10) stating therein that she had herself performed marriage with the petitioner on 10.10.1999 according to Sikh rites and ceremonies and she had performed the marriage out of her free will and it was clearly stated that she was 20 years of age at the time of marriage and FIR (Annexure P1) was registered on account of political interference by her father.

5. Learned counsel submits that accordingly in view of all the above facts, present FIR along with its subsequent proceedings is not maintainable. It is also submitted that the petitioner has not been declared Proclaimed Person in the present case. It is further submitted that though it

has been alleged by respondent No.1 that the petitioner is a proclaimed person in the present case, however, no such order has ever been supplied or handed over to the petitioner in this regard.

6. Learned State Counsel files status report by way of affidavit of Satnam Singh, PPS, Deputy Superintendent of Police, Subdivision Sri Muktsar Sahib, District Sri Muktsar Sahib dated 09.09.2023 which is taken on record and copy of the same is supplied to the counsel opposite.

7. Learned State Counsel refers to para 4 of the said status report, wherein the above said facts have been admitted by respondent No.1-State in of their reply. Para 4 of aforesaid reply is reproduced hereinbelow:-

“4. That since the investigation was not reached any logical end because of non-recovery of victim who was in the custody of accused-petitioner who was also declared proclaimed offender. Finding no likelihood to trace the victim in near future, therefore Untrace Report was prepared by the then SHO, P.S. Sadar Muktsar Sahib on 29.10.2002 and same was presented in the concerned court. This untraced report finally came up for hearing before the Lok Adalat, where de facto complainant-respondent no.2 had appeared and stated that he has got no objection if the Untrace report is accepted. And thus in view of no objection by complainant, the closure report was approved by the Ld. JMIC/Presiding officer vide Order dated 20-3-2010.”

8. I have heard learned counsel for the parties.

9. From the facts on record, it emerges that it remains undisputed that, respondent No.3 had attained the age of majority at the time of registration of the FIR; and that petitioner and respondent No.3 are married and two children were born out of their wedlock. Admittedly too, untrace report was prepared and submitted which was not objected to by the complainant/respondent No.2 on the basis of which cancellation report was accepted by learned Judicial Magistrate, 1st Class, Muktsar on 20.03.2010 (Annexure P8). Accordingly, in view of the above said undisputed facts, this Court is inclined to allow the present petition.

10. However, it is noticed that as per Office Report dated 19.05.2023, it has been reported that *"Notice received back unserved with the report that he has refused from taking summon so notice affixed."* It is, therefore, clear that Service is complete in the matter.

11. Accordingly, in view of the above said discussion, present petition is **allowed** and FIR No.157 dated 15.09.1999 registered under Sections 363, 366 and 120-B IPC at Police Station Sadar Muktsar, District Muktsar (Annexure P1) as well as subsequent proceedings arising there from, is quashed qua the petitioner. However, in case anything survives, respondent No.2 is at liberty to file appropriate application in this regard.

12. Pending application(s) if any also stand(s) disposed of.

11.09.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No