

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

248

CRM-M-3735-2018

Date of Decision : 19.05.2023

Sahil Sabharwal and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Rahul Bhargava, Advocate
for the petitioners.

Mr.Shiva Khurmi, Asstt. A.G., Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Section 482 Cr.P.C., are seeking quashing of FIR No.003 dated 17.01.2018, under Sections 363 and 366-A of IPC, registered at Police Station Nurmahal, District Jalandhar.

2. From the perusal of petition, FIR and arguments of learned counsels, it comes out that petitioner No.1 eloped with respondent No.3 in 2018. The petitioner No.1 was 18 years old and respondent No.3 was 16 years old at that point of time. The petitioner No.1 and respondent No.3 though were minor yet solemnised marriage on 15.01.2018. After solemnising marriage, they made a representation to SSP, Jalandhar seeking protection of their lives and liberty. They also filed CRM-M-3035-2018 before this Court seeking protection of their lives and liberty. The petition came up for consideration before this Court on 20.08.2019 and the following order came to be passed :

“Upon a query made by this Court, petitioner

No.1-Prerna has stated that as of now she is 18 years of age and that she has voluntarily performed marriage with petitioner No.2 Sahil Sabharwal and wishes to reside with him.

In view of the aforestated position, the petition is disposed of with liberty to the petitioners to approach the Senior Superintendent of Police concerned in case they ever apprehend any threat to their lives at the hands of respondents No.4 to 8. Upon any such application being filed, the Senior Superintendent of Police concerned shall examine the threat perception and take necessary steps, as warranted under facts and circumstances so as to ensure that no harm is caused to petitioners. The learned counsel for respondents No.4 to 8 to advise the said private respondents not to take law in their hands.”

3. The father of respondent No.3 lodged impugned FIR against the petitioners.

4. This Court while entertaining present petition vide order dated 22.01.2020 directed to verify the marital status of the petitioner No.1 and respondent No.3.

5. Learned counsel for the petitioners relying upon the judgments passed by this Court in CRM-M-24567-2018 titled as “Jaspal Singh vs. State of Punjab and others, CRM-M-6312-2023 titled as “Rahul @ Rinku and another vs. State of Punjab and others, CRM-M-5992-2023 titled as “Tek Chand vs. State of Punjab and others and CRM-M-13801-2019 titled as “Vivek vs. State of Haryana and other submitted that impugned FIR deserves to be quashed.

6. Learned State counsel upon instructions from ASI Mangat Gupta submits that it is factually correct that petitioner No.1 and respondent

No.3 have solemnised marriage in 2018 and as on day, they are happily staying together.

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

8. This Court has quashed similar FIR(s) on the same set of grounds. This Court in CRM-M-13801-2019 titled as “Vivek vs. State of Haryana and others has held:

“7. In Indian culture, irrespective of caste and religion, marriage is neither compromise nor a contract but it is a sacrosanct knot of two families. It is not physical meeting of two persons of opposite sex whereas it is most important & pious institution of our society where two families become one. Importance of marriage further finds support from the fact that a child from a couple without marriage is not as recognised as a child from a duly wedded couple.

8. Object of law whether customary, religious or made by legislature, is to protect life and liberty of every human being. Object of law is not to disturb settled life of anyone without his fault. A man can be punished for commission of an offence, however, he cannot be punished just because his act is not liked by anyone else.

9. In the case in hand, the parties are major and they have performed marriage though against the wish of their parents. They are happily cohabiting and no one including courts and law enforcing agencies have right to disturb their life without their fault. They have right to live their life in the way and manner they like. They are blessed with one child. With a pending criminal case, nobody can lead a happy life. State has no right to interfere in the life of a duly married couple. Continuance of criminal proceedings is not only going to disturb life of the petitioner but also there are all possibilities of disturbance in life of victim and their child. Our State is a welfare State, however, there is no mechanism to provide accommodation, food and other basic daily needs to the dependent of a convicted person. In our country,

except stray cases of urban population, it is man who is earning and taking care of his wife and children.

10. Keeping in mind above facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. Thus, FIR No.43 dated 24.01.2019 (Annexure P-1) registered under Sections 363, 366-A, 420, 468, 471, 506 and 201 of IPC and Section 3(2)(v) of SC/ST Act registered at Police Station Meham, District Rohtak and all consequential proceedings arising therefrom, are hereby quashed qua the petitioner.”

9. In the case in hand, the petitioner and respondent No.3 solemnised marriage in 2018 and since then they are happily cohabiting.

10. The case of the petitioner is squarely covered by different orders passed by this Court, thus, this petition deserves to be allowed and accordingly allowed.

11. FIR No.003 dated 17.01.2018, under Sections 363 and 366-A of IPC, registered at Police Station Nurmahal, District Jalandhar is hereby quashed qua the petitioners.

(JAGMOHAN BANSAL)
JUDGE

19.05.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>