

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRR-2190-2019 (O&M)

Date of Decision: 08.05.2023

Ranjit Kaur

...Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Rakesh Gupta, Advocate for the petitioner

Mr. Shiva Khurmi, AAG, Punjab

None for respondent No.2

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 401 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking setting aside of order dated 12.06.2019 whereby learned Additional Sessions Judge, Hoshiarpur has allowed application under Section 319 Cr.P.C and summoned the petitioner to face trial under Sections 363, 366A, 376, 427 read with Section 34 IPC.

2. Despite opportunities and service, there is no representation on behalf of respondent No.2 and matter is pending before this Court since 2019. This Court is left with no other option except to adjudicate the present petition with the able assistance of learned counsel for the petitioner as well as learned State counsel.

3. The brief facts emerging from the record are that Jasbir Kaur lodged a complaint alleging that on 14.11.2017, she along with her father-in-law Gurbax Singh and daughter Ramandeep Kaur, after withdrawing pension from UCO bank Hoshiarpur, were going back to their house on Active Scooter and at about 10/11 AM, when they reached near the Kothi of Kamal Chaudhary, from the side of bus stand Karan along with his three accomplice came in an auto-rickshaw and forcibly took her daughter. Her daughter was having purse containing two mobiles and Rs.10,000/-. Complainant tried his level best to trace her daughter but in vain.

The prosecutrix solemnized marriage with Karan on 10.12.2017 and they filed a petition bearing No.CRM-M-48227-2017 before this Court seeking protection of their lives and liberty. The prosecutrix along with Karan appeared before this Court and this Court vide order dated 18.12.2017 disposed of the petition with a direction to Senior Superintendent of Police, Hoshiarpur to look into the grievance of the petitioners. The prosecutrix and son of the petitioner came back on 28.05.2018. The police, after completing investigation, filed its report against Karan. The prosecution during the course of investigation examined different witnesses and on the basis of deposition of witnesses, the prosecution moved an application under Section 319 Cr.P.C. seeking summoning of present petitioner who is mother of Karan. The matter came up for consideration before Additional Sessions Judge, Hoshiarpur

who vide impugned order dated 12.06.2019 has summoned the petitioner to face trial along with her son Karan.

4. Learned counsel for the petitioner *inter alia* contends that petitioner has been summoned on the sole statement of prosecutrix who had deposed that petitioner pressurized her to perform marriage with Karan and kept her in the house. Petitioner incurred expenditure of marriage. She (prosecutrix) was kept in the house of petitioner where she was raped by Karan.

As per FIR, Gurbax Singh-grandfather of prosecutrix was accompanying her at the time of alleged incident. Gurbax Singh was examined as PW-3 on 20.03.2019. In his cross-examination, he has admitted that a compromise deed Ex.DA was executed prior to 14.11.2017 and it was signed by family members of the petitioner as well as prosecutrix. Father of prosecutrix in his examination dated 20.03.2019 has disclosed that Karan used to drive auto-rickshaw owned by him. He has further disclosed that he noticed that his daughter has left home at her own accord with Karan after 4-5 days from 14.11.2017. He along with his wife went to police station on 24.11.2017. Karan and his daughter (prosecutrix) came back together to their house on 24.05.2018. The deposition of father and grandfather of prosecutrix is diametrically opposite to the contents of FIR as well as deposition of prosecutrix who at a belated stage implicated the petitioner.

5. Learned State counsel submits that prosecutrix in her examination has made categoric allegations against petitioner, thus, Trial Court has rightly summoned the petitioner. She had connived with the main accused, thus, she is equally responsible for the commission of alleged offence.

6. The conceded position emerging from the record is that son of the petitioner and prosecutrix solemnized marriage on 10.12.2017. They filed petition before this Court seeking protection of their lives and liberty. This Court vide order dated 18.12.2017 directed Senior Superintendent of Police, Hoshiarpur to redress grievance of the petitioners therein. A compromise, prior to 14.11.2017 (the date as per FIR on which Karan kidnapped prosecutrix), was arrived at between family members of both sides. As per agreement, marriage of Karan has to be solemnized with prosecutrix on her attaining the age of majority. The petitioner was not named in the FIR. The petitioner and prosecutrix came back on 24.05.2018.

7. I have heard the arguments of learned counsel for the petitioner and learned State counsel and have scrutinized the record.

8. The complainant and grandfather of the prosecutrix at the initial stage had feigned ignorance about their acquaintance with Karan, however, grandfather in his cross-examination has accepted existence of compromise between the parties. As per father of the prosecutrix, 4-5 days after 14.11.2017, his daughter-prosecutrix, at her own accord, left

with Karan whereas as per FIR, Karan kidnapped prosecutrix on 14.11.2017. The prosecutrix and Karan approached this Court seeking protection of their lives and liberty. They stayed together from 14.11.2017 to 24.05.2018. There was compromise between the parties to solemnize marriage of prosecutrix with Karan on attaining her age of majority.

9. The above stated facts and statements of parties collectively indicate that Karan and prosecutrix, at their own accord left their house, solemnized their marriage, got protection order from this Court and came back to their home after staying away from their home for 7 months.

There seems no role of the petitioner (mother of Karan) in commission of alleged offence. It appears that she has been implicated because she is mother of Karan with whom prosecutrix solemnized marriage.

10. In view of above noted facts and findings, this Court finds that present petition deserves to be allowed and accordingly allowed. Impugned order dated 12.06.2019 passed by Additional Sessions Judge, Hoshiarpur is hereby set-aside.

(JAGMOHAN BANSAL)
JUDGE

08.05.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>