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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4660-2020

Date of decision: 05.06.2024

Surjit Rai

....Petitioner

V/s

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. GBS Gill, Advocate for
Mr. Shilesh Gupta, Advocate for the petitioner.
Mr. Adhiraj Singh Thind, AAG, Punjab.
None for respondent No.2.
Mr. Tejinder Pal Singh, Advocate for respondent No.3.

SUMEET GOEL, J.

1. The present petition has been filed, under Section 482 of the Code of Criminal Procedure Code of 1973 (hereinafter to be referred as "Section 482"), by the petitioner-Surjit Rai for quashing of FIR 268 dated 25.12.2009 (impugned FIR) registered under Sections 363-A/366 of Indian Penal Code, 1860 at Police Station Payal, District Khanna, Punjab and all consequential proceedings arising therefrom.

2. It would be pertinent to refer herein to the factual matrix of the present *lis*:

(i) The impugned FIR, as spelt out in the present petition, is as follows;



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“Statement of Ketab Singh alias Ravi son of Ram Parshadi caste yadav r/o Village Roopdhani, P.S. Jaithra, Distt Eta, State UP at present tenant of Kuldeep Singh, r/o Ward No.8, Payal, aged about 40 years. It is stated that I am resident of the aforesaid address. About ten years ago, I migrated to Punjab and started residing at Payal. I have four sons and two daughters. My elder daughter Jyoti is aged 15 years. And younger daughter Arti is aged 13 years, who is 5th standard passed from Payal school. My wife died in a roadside accident, therefore, my daughter was doing the household work at home. My brother-in-law (Sala), Vinod Kumar son of Birbal Singh r/o Hanukhera, P.S Bhoga, Distt Mehpuri, U.P was residing near to us at Payal from last 15/16 years, who used to install a rehri of kulcha’ at Bus Stand, Payal. One Surjit Rai son of Surinder Rai caste Yadav r/o Desaipur, P.S. Swaipati, Distt Muzaffar Nagar, Bihar, was residing with him for last ten years, who was also selling Kulchas on rehri along with my brother-in-law. I have also installed a rehri of 'golgappas' at bus stand, Payal. Due to this reason, Surjit Rai, servant of my brother-in-law Vinod Kumar used to visit my house. On 21.12.2009, I along with my sons was present at Bus Stand, Payal, where we had installed a rehri'. My daughter Jyoti and Arti were at home. When at about 8.00 PM, I returned my home, then my daughter Jyoti informed that Arti had gone to the market in the evening but did not come back. I searched for my daughter Arti but could not trace her. Surjit Rai, servant of my brother in law Vinod Kumar, was also not at his home. I believe that the said Surjit Rai had enticed away my daughter. Today I was going to police station for giving information but you met me near bus stand Payal. Statement has been recorded, heard and correct. Action be taken....xx”

The complainant/informant in the impugned FIR is one Ketab Singh, who has been impleaded as respondent No.2 herein and the victim is his daughter namely Aarti Devi, who has been impleaded as respondent No.3 (herein).

(ii) The petitioner has pleaded that he got married with the victim (respondent No.3 herein) on 23.04.2010 whereinafter they had been living in the State of Bihar as husband and wife. It has been further pleaded that out of this wedlock, three children have been born.



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(iii) The petitioner is stated to have been arrested approximately after 07 years of the registration of the impugned FIR. After being arrested, the petitioner was granted regular bail by the Sessions Court vide order dated 27.10.2016. It is worthwhile to notice that, during the course of proceedings in the bail petition before the Sessions Court, a statement of the victim was recorded which has been reproduced in the said bail order and the same reads as under:

“During the course of arguments, prosecutrix, appeared through Counsel Ms. Rachna Dev, Advocate, and got recorded her statement as below:-

“Stated that I performed marriage as per Hindu rites with applicant-accused Surjit Rai with my free will and consent on 23.4.2010. I was major at the time of alleged occurrence and at the time of my marriage. I am happily married with applicant-accused Surjit Rai. Out of our wedlock, we have two children. My elder child/son namely Paramjit Kumar was born on 4.5.2011, photocopy of his birth certificate is Mark A. My younger daughter RinkeyKimari was born on 29.11.2014, photocopy of her date of birth certificate is Mark B, copy of my aadhar card is March C. Today I have brought original documents for the perusal of the Court (original seen and returned). The present FIR was got registered by my father as he was not agreed to our marriage. I have no objection of the applicant-accused is admitted to bail.”

(iv) It is in this factual backdrop that the quashing of the impugned FIR as also all proceedings arising therefrom has been sought for.

3. Learned counsel for the petitioner has argued that the petitioner and the victim were having an affair whereinafter they got married on 23.04.2010, the victim was major at the time of marriage as also registration of the impugned FIR, the petitioner and the victim have been blessed with three children and the continuation of the proceedings *qua* the impugned FIR would amount to gross abuse of process of law. Hence, quashing of the impugned FIR as also all proceedings arising therefrom has been sought for.



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3.1 The State of Punjab has filed a short reply dated 29.05.2024, relevant whereof reads as under:-

“5. That during the investigation the prosecutrix Arti recorded her statement dated 26-09-2016 before the J.M.I.C Payal stating that Surjit Rai is her husband and now she is aged 28 years. She performed marriage with he own consent. She is happily married to Surjit. They have two children.

6. That thereafter the petitioner filed bail application under section 439 Cr.P.C for grant of regular bail, which was allowed by the court of Addl. Sessions Judge, Ludhiana vide order dated 27-10-2016.

7. That after completion of investigation, the additional Challan was presented before the court of S.D.J.M, Payal on 06-04-2016 and the same was committed before the Trial Court on 06-04-2019. Now the case is pending before the trial court for awaiting order of this Hon'ble Court in the present petition.

8. That in view of facts and circumstances stated in it is submitted that there is a prima-facie case against the petitioner that he enticed the prosecutrix away with him, and since then the prosecutrix has been residing with the petitioner. However, as per the abovementioned statement, the petitioner solemnized marriage with the prosecutrix. Hence, the present short reply is being filed for the kind consideration of this Hon'ble Court.”

Learned State counsel has made submissions in tandem with the aforesaid short reply filed by the State of Punjab.

3.2 Service of the instant petition was effected upon the complainant/informant-respondent No.2. However, neither he has appeared in person nor has chosen to appear through counsel.

3.3. Learned counsel appearing for respondent No.3 has made submissions in tandem with the submissions made by learned counsel for the petitioner.



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4. I have heard learned counsel for the parties and have perused the record.

Prime Issue

5. The prime issue that arises for consideration in the present petition is as to whether the impugned FIR (as also the proceedings arising therefrom) deserves to be quashed. The analogous legal issue that arises for consideration is as to whether FIR registered under Sections 363/366-A of IPC at the instance of the father/guardian of the victim ought to be quashed when it is found that the accused and the victim have married each other on their own volition.

Relevant Statutory provisions

6. Indian Penal Code, 1860

Section 361 of IPC, 1860 reads as under:-

“361.Kidnapping from lawful guardianship. —Whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.”

Section 363-A of IPC, 1860 reads as under:-

“363 A.Kidnapping or maiming a minor for purposes of begging. —

(1)Whoever kidnaps any minor or, not being the lawful guardian of a minor, obtains the custody of the minor, in order that such minor may be employed or used for the purpose of begging shall be punishable with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(2) Whoever maims any minor in order that such minor may be employed or used for the purposes of begging shall be punishable with imprisonment for life, and shall also be liable to fine.



(3) *Where any person, not being the lawful guardian of a minor, employs or uses such minor for the purposes of begging, it shall be presumed, unless the contrary is proved, that he kidnapped or otherwise obtained the custody of that minor in order that the minor might be employed or used for the purposes of begging.*

(4) *In this section,—*

(a) *“begging” means—*

(i) *soliciting or receiving alms in a public place, whether under the pretence of singing, dancing, fortune-telling, performing tricks or selling articles or otherwise;*

(ii) *entering on any private premises for the purpose of soliciting or receiving alms;*

(iii) *exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;*

(iv) *using a minor as an exhibit for the purpose of soliciting or receiving alms;*

(b) *“minor” means—*

(i) *in the case of a male, a person under sixteen years of age; and*

(ii) *in the case of a female, a person under eighteen years of age.]”*

Section 366 of IPC, 1860 reads as under:-

“366. Kidnapping, abducting or inducing woman to compel her marriage, etc.— *Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; [and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.]”*

Code of Criminal Procedure, 1973



Section 482 of Cr.P.C., 1973 reads asunder:-

“482.Saving of inherent powers of High Court.- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

Relevant Case Law

7. The precedents, *apropos* to the matter(s) in issue are as follows:

(i) In a judgment titled as ***Mafat Lal &Anr. vs. State of Rajasthan*** = ***Neutral Citation No.2024 INSC 324*** the Hon’ble Supreme Court has held as under:-

“6. The High Court although records all such facts, appears to have been swayed with the fact that the abductee was a minor at the time when she left her home and that the appellant had evaded the investigation and had been successful in keeping away from the process of law for several years. The High Court further proceeded on the assumption that the appellant had actually kidnapped/abducted the minor daughter of the complainant.

7. Before this Court, also the abductee has joined the accused as appellant No.2. Once again similar stand has been taken as was taken before the High Court. Both the appellants have filed separate affidavits. Appellant No.2 has specifically stated before the High Court as also before this Court that she had left her parental home on her own free volition. The appellants are married since December 2006 and have been living happily. They have also been blessed with a son in the year 2014 who would now be 8 years old. No fruitful purpose would be served by relegating the matter for conducting the trial as the same would not be conducive for either of the appellants. It would be a futile exercise. Kidnapping would necessarily involve enticing or taking away any minor under eighteen years of age if a female for the offence under Section 363 IPC. In the present case, the abductee had clearly stated that she was neither taken away nor induced and that she had left her home of her own free will. Section 366 IPC would come into play only where there is a forceful compulsion of marriage, by kidnapping or by inducing a woman.



This offence also would not be made out once the appellant no. 2 the abductee has clearly stated that she was in love with the appellant no.1 and that she left her home on account of the disturbing circumstances at her parental home as the said relationship was not acceptable to her father and that she married appellant no.1 on her own free will without any influence being exercised by appellant no.1.”

(ii) In a judgment titled as ***Arif Khan vs. State and another*** = ***Neutral Citation No.2024:DHC:198***, the Hon’ble Delhi High has held as under:-

“9. This Court notes that the judicial system is tasked not only with interpreting and upholding the law but also with understanding the dynamics of society. The Court's role extends beyond a mere application and interpretation of statutes. It involves an understanding of the implications of its decisions on individuals and the community at large. Striking this balance requires a thorough examination of the facts, legal precedents, and the evolving ethos of the society it serves. The Courts must weigh competing interests, considering the impact of its decisions on the parties involved and the broader implications for justice, fairness, and social order.

10. The dilemma at times faced by the Court can be of trying to justify the State/Police action against an adolescent couple who married each other and continued to lead a peaceful life and raise a family, and respect for obeying the law of the land. This Court has time and again reached a conclusion that true love between two individuals, one or both of who may be minor or minors on the verge of majority, cannot be controlled through rigours of law or State action. The cases as the present one are those where the dilemma of the judge, which though may be rare, has to take into account the delicate balance which the constitutional Court or Courts of law have to strike between the law and its strict application and the repercussion of its judgments and orders by application of such laws on the society as a whole and the individuals who are before it.

11. More often than not, the cases as the present one, though have limited individuals in the Memo of Parties of the petitions, however, the effect of the orders in such petitions travel and affect many more beyond



the Memo of Parties. For example, in the present case, the future of families of the parties and the two daughters born out of this wedlock, one aged 08 years, who is school going, and the other 2 ½ years old, and the wife who is a house-maker and their beautiful harmonious life, they have built together in the last 09 years, is at stake and dependent on the outcome of the present petition.

12. When the scales of justice have to be weighed, they are not always on the basis of mathematical precision or mathematical formulas, but at times, while one side of the scale carries the law, the other side of the scale may carry the entire life, happiness and future of toddlers, their parents and parents of their parents. The scale that reflects and portrays such pure happiness sans any criminality will definitely equal the scale carrying law as the application of law is meant for maintaining rule of law.

13. This Court taking note of the overall facts and circumstances of the case and the fact that in case, the FIR in question, in these peculiar facts and circumstances, is not quashed will result in affecting the future of the daughters born from this union which will result in failure of effective and real justice.”

(iii) In a judgment titled as **S. Varadarajan vs. State of Madras, AIR 1965 (SC) 942** the Hon’ble Supreme Court has held as under:-

“7. The question whether a minor can abandon the guardianship of his or her own guardian and if so the further question whether Savitri could, in acting as she did, be said to have abandoned her father's guardianship may perhaps not be very easy to answer. Fortunately, however, it is not necessary for us to answer either of them upon the view which we take on the other question raised before us and that is that "taking" of Savitri out of the keeping of her father has not been established. xxx xxx.

xxx	xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx	xxx

9. It must, however, be borne in mind that there is a distinction between "taking" and allowing a minor to accompany a person. The two expressions are not synonymous though we would like to guard ourselves from laying down that in no conceivable circumstance can the two be regarded as meaning the same thing for the purposes of s. 361 of the Indian Penal Code. We would limit ourselves to a case like the present



where the minor alleged to have been taken by the accused person left her father's protection knowing and having capacity to know the full import of what she was doing voluntarily joins the accused person. In such a case we do not think that the accused can be said to have taken her away from the keeping of her lawful guardian. Something more has to be shown in a case of this kind and that is some kind of inducement held out by the accused person or an active participation by him in the formation of the intention of the minor to leave the house of the guardian.

10. *It would, however, be sufficient if the prosecution establishes that though immediately prior to the minor leaving the father's protection no active part was played by the accused, he had at some earlier stage solicited or persuaded the minor to do so. In our opinion if evidence to establish one of those things is lacking it would not be legitimate to infer that the accused is guilty of taking the minor out of the keeping of the lawful guardian merely because after she has actually left her guardian's house or a house where her guardian had kept her, joined the accused and the accused helped her in her design not to return to her guardian's house by taking her along with him from place to place. No doubt, the part played by the accused could be regarded as facilitating the fulfillment of the intention of the girl. That part, in our opinion, falls short of an inducement to the minor to slip out of the keeping of her lawful guardian and is, therefore, not tantamount to "taking".*

(iv) This Court in a judgment titled as ***Talima vs. State of Haryana and others, 2024(1) PLR 496=Neutral Citation 2024:PHHC:035176*** , has held as under:

“9. To consider this aspect, it would be apposite to delve into the nature, scope and ambit of powers of the High Court under Section 482 of Cr.P.C., 1973.

9.1. Section 482 of Cr.P.C. of 1973 is, in fact, statutory recognition of the doctrine of inherent jurisdiction of a High Court. This doctrine received statutory recognition, for the first time, when Section 561-A was inserted in Criminal Procedure Code of 1898 by way of Code of Criminal Procedure (Amendment Act) of 1923. By way of introduction of Section 561-A in Cr.P.C., 1898, the legislature recognized the existence of inherent powers in a High Court and provided that nothing in the Code can be deemed to limit



inherent powers of a High Court to make such order(s) as would be necessary to give effect to any order under the Code or to prevent abuse of process of any Court or to otherwise secure the ends of justice. The Hon'ble Supreme Court in the judgment of Mohammad Naim (supra) has held that this Section gives no new powers to a High Court; it only provides that powers which the High Court already inherently possesses, shall be preserved and a provision has been inserted into statute book lest it be misconstrued that only those powers are possessed by the High Court which are expressly conferred by the Code of Criminal Procedure & that all such inherent powers stand extinguished after the Code come into force. In essence, this provision refers to residuary plenary powers of High Court to do justice. It is notable that such inherent powers, which received statutory recognition at the end of legislature, empowers a High Court to exercise such inherent jurisdiction not only in respect of proceedings before it but also in respect of proceedings in the Subordinate Courts. The legislature, acknowledging the significance and importance of such inherent powers, chose to keep alive the provision of Section 561-A of Cr.P.C., 1898 in the Cr.P.C. currently in vogue i.e. Cr.P.C. of 1973 albeit only by renumbering the provision as Section 482.

9.2. *The important aspect that immediately next craves attention is as to what are the "inherent powers of a High Court" recognized under Section 482 of Cr.P.C., 1973. At the outset, it deserves to be noticed that these inherent powers are not defined in the statute. Inherent powers are essentially those powers which ipso facto exist in the Court by virtue of its existence. The phraseology of inherent powers as defined in the dictionaries is as under:-*

- (a) *Black's Law Dictionary defines 'inherent powers' as "Existing in something as permanent, essential, or characteristic attribute."*
- (b) *Webster's New World Law Dictionary defines it as "A power that must be deemed to exist in order for a particular responsibility to be carried out."*
- (c) *Oxford (Advanced Learner's Dictionary) defines "inherent" as "existing as a natural or permanent feature".*

The Hon'ble Supreme Court in case of "Devendrappa"(supra) has relied upon the maxim of "quando lex aliquidaliquid concedit, concedere videtur et id sine quo res ipsae, esse non potest" (when the law gives a person anything it gives him that without which it cannot exist) to hold that the inherent powers of a High Court are all such powers which are



necessary to do the right and to undo a wrong in course of administration of justice. The Hon'ble Supreme Court, in this judgment, has further referred to the maxim "ex debito justitiae" to say that such powers are ones given to do real and substantial justice for which purpose alone High Court exists. The Hon'ble Supreme Court in the judgment of Parbatbhai(supra) has held that the powers under Section 482 of Cr.P.C. of 1973 are aimed at preserving the inherent powers of the High Court to prevent an abuse of the process of any Court or to secure the ends of justice.

9.3A cumulative reading of the above said would show that the inherent powers of a High Court are powers which are incidental replete powers, which if did not exist so, the Court would be obliged to sit still and helplessly see process of law and Courts being abused for the purpose of injustice. These powers of a High Court hence deserve to be construed with the widest possible amplitude. It is trite posit of jurisprudence that though laws attempt to deal with all cases that may arise, the infinite variety of circumstances which shape events and the imperfections of language make it impossible to lay down provisions capable of governing every case which in fact arises. A High Court which exists for the furtherance of justice in an indefatigable manner should, therefore, have unfettered power to deal with situations which, though not expressly provided for by the law, need to be dealt with to prevent injustice or an abuse of the process of law and Courts.

9.4. Accordingly, it is unequivocal that the inherent powers of a High Court; recognized by way of Section 482 of Cr.P.C. of 1973; are powers which are unbridled, unfettered and plenary in nature. These powers are to be exercised keeping in view the following salutary purposes viz; (a) to give effect to any order passed under the code (b) to prevent abuse of process of any Court (c) to otherwise secure the ends of justice. It is neither conceivable nor desirable to lay down any exhaustive set of guideline(s) to govern the exercise of this plenary inherent jurisdiction, however alluring this aspect may be. Such exercise of power would definitely be dependent upon the factual matrix of the case which the court is seisin of."

Analysis (re law)

8. More often than not, this Court is faced with an incessant stream of petitions wherein the father/guardian has got registered an FIR by stating that his daughter has been enticed away by the accused. As the



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factual position gradually unfolds; it is found that the accused and the victim were earlier in a relationship and have, in some cases, later on even solemnized marriage but the said relationship/marriage was not to the liking of the guardian/family of the victim. For parents to tether their affinity towards a daughter only through (injured) honour, psychogenic pain of separation or sheer dominance of Will is neither altruistic nor a kindered affinity, both of which are necessary foundation to a family. Parents must take into account that their children may make choices which are individual to them; and just as life does not tarry with yesterday, certain consequential life events cannot be reversed. It must be also considered what William Shakespeare asseverated, in the play “A Midsummer Night’s Dream”:

“Love looks not with the eyes, but with the mind; And therefore is wing’d Cupid painted blind.....”,

If a daughter has followed her mind to enter into a matrimony that a father disapproves of, thinks of it as being an outcome of being blinded by sheer love or even feels wounded by the manner of it; love for the daughter, kinship for progeny and consideration for salubrity of familial relationship, at the very least, far outweigh belligerence and pyrrhic victory of having prolonged antagonism and actions arising thereof towards daughter and her matrimony.

8.1 The Hon’ble Supreme Court in case of ***Mafat Lal*** (supra) has enunciated that, in such like case, the offence of kidnapping is not made out and no useful purpose would be served by sending the accused to trial. Further, the Hon’ble Delhi High Court in the case of ***Arif Khan*** (supra) has



considered the factum of the accused and the victim having been married and happily raising their family to be sufficient cause(s) to quash such like FIR (as also proceedings arising therefrom) in the interest of justice.

8.2 There is yet another aspect of the matter viz. whether the victim had left the lawful guardianship on her own accord. The Hon'ble Supreme Court in the case of *S. Varadarajan* (supra) has enunciated that, if the facts of a case reflect that the victim had left the lawful guardianship on her own accord, then the accused cannot be said to have taken her out of lawful guardianship and hence the offence of kidnapping, as stipulated in Section 361 of IPC 1860, would not be made out. Such factual aspect can be well gathered from the statement/stand of the victim in question.

8.3 This Court in the case of *Talima* (supra) has delved into the nature, scope and ambit of powers of the High Court under Section 482 of Cr.P.C. of 1973 to hold that inherent powers of a High Court are powers which are incidental replete powers, which if did not so exist, the High Court would be obliged to sit still and helpless, see process of law and Courts being abused for the purpose of injustice. There is no gainsaying that it is unequivocal that the inherent powers of the High Court; statutorily recognized by way of Section 482 of Cr.P.C., 1973; are unbridled, unfettered and plenary powers to be exercised for the cause of justice. The High Court is also, well within its jurisdiction, to read between the lines of the case set-up by the complainant/prosecution as also look into and consider all relevant attending circumstances.



8.3 For a couple, who have been wedded happily for long and have children; it can be embarrassing, unsettling and even disconcerting to find being subjected to unabated withering over their matrimony.

“A marriage is a matter of more worth, than to be dealt in by attorneyship”, as William Shakespeare entreated in the play titled *Henry VI*.

For a parental trifling with conjugal relationship; to the extent of bringing forth to face trial, the accused (husband) alongwith purported victim (daughter of complainant) as also their children, over questioning the *raison d’etre* of the wedlock, is seemingly a leaf out of *Commedia Dell’Arte*. The sheer distress caused to the young couple and their children on this account is unfathomable. A father’s rancor cannot be permitted to remain extant *ad infinitum ad nauseam*. To have the accused (*now* husband to the victim as also *now* father to the children born from wedlock), the purported victim (daughter to the complainant, *now* wife to the accused and *now* mother to the children born from wedlock) as also children; brought forth to Court, repeatedly, to question and scrutinize the wedlock, of which the said children are born of, would be outrightly farcical & patently ludicrous.

8.5 There is yet another pertinent aspect of the matter.

A marriage is an admittance into family life which becomes a basic unit of community and society. When children are born to this covenant, the marriage does not remain an entity and ensconced between two people but it pivots into a family wherein children’s presence kindles a collective obligation for the kinsfolk and even the wider Society. Hence, to trifle with a family by way of having the sanctity of matrimony questioned,



is egregious. It would tantamount to injustice, especially to the children, if the accused and his wife (purported victim) are left to such an inveterate belligerence.

8.6 *Ergo*, in the cases of nature as the one in hand is; it would not serve the interest of justice *nay* substantial justice, if the High Court were to decline to exercise its inherent plenary powers under Section 482 of Cr.P.C., 1973 to quash the FIR as also all proceedings emanating therefrom to secure the indefatigable cause of justice. This Court must hasten to add a word of caution herein *viz.* this course of action ought to be adopted with careful consideration of entirety of facts and circumstances of the particular case in hand *for* no such principle/course of universal application can possibly be laid down.

8.7 As a result of the above rumination, the following postulates emerge:

(i) Where the impugned FIR pertains to allegation of offences under Sections 363-A/366 of IPC& it emerges that the accused and the victim have married each other and are living happily, the High Court ought to consider, with a high degree of latitude, such plea for quashing such an FIR (as also proceedings arising therefrom). Such plea would be fortified in case child has been born from the wedlock.

(ii) The factum of the victim being minor at the time of the alleged offence shall not *ipso facto* call for rejection of such a plea on this score itself. Even in such like cases, the High Court is well within its jurisdiction to evaluate the entirety of facts including the factum of the

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victim having attained the age of majority and still staying in the matrimony, the said couple having been blessed with child etc.

- (iii) There is no gainsaying that above postulates are not to be universally/sweepingly applied, for every case has its unique facts/circumstances.

Analysis (re-facts of present case)

9. Now this Court reverts to the facts of the case in hand to ratiocinate thereupon.

9.1. The impugned FIR was got registered by respondent No.2 on 25.12.2009 primarily alleging that his daughter was enticed away by the accused. As per the undeniable factual position; the petitioner-accused got married with the victim on 23.04.2010, two children were born out of this wedlock when the petitioner was granted the concession of regular bail by the Sessions Court on 27.10.2016, the third child has been born out of this wedlock thereafter on 27.03.2017, the victim had attained the age of majority at the time of marriage & had solemnized marriage on her own volition. The purported victim-respondent No.3 has wholeheartedly supported the cause of the petitioner-accused whereas the complainant/father of victim (respondent No.2) has not chosen to contest the present petition, reasons whereof are not difficult to comprehend. No fruitful purpose would be served by relegating the matter for trial especially in view of the statement of the victim made under Section 164 of Cr.P.C.,1973 on 26.09.2016 as also another statement made by the victim before the Sessions Court on 27.10.2016 during the course of hearing of the regular bail petition



of the petitioner-accused wherein the victim has categorically stated that she was major at the time of her marriage with the petitioner-accused, she is living happily with the petitioner-accused and have been blessed with children & the impugned FIR was got registered by her father as the said relationship/marriage was not to his liking. Therefore, keeping in view the totality of the facts and circumstances of the case in hand, this Court finds it a fit case for exercise of its inherent plenary jurisdiction to quash the impugned FIR as also all proceedings emanating therefrom.

Decision

10. Accordingly, the FIR bearing No.268 dated 25.12.2009 (impugned FIR) registered under Sections 363-A/366 of Indian Penal Code, 1860 at Police Station Payal, District Khanna, Punjab and all consequential proceedings emanating therefrom are quashed.
11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

June 05, 2024
Ajay

Whether speaking/reasoned:	Yes
Whether reportable:	Yes