



226 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11881-2022 (O&M)
Date of decision: 14.05.2024

PARDEEP KUMAR @ PARDEEP SINGH @ VEERU
...PETITIONER
V/S

STATE OF PUNJAB AND OTHERS
...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.
Mr. Sandeep Kumar, DAG Punjab.
Mr. Gaurav Kumar, Advocate for
respondents No. 2 and 3.

HARPREET SINGH BRAR J. (ORAL)

1. Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 186 dated 18.11.2020 registered under Sections 376, 363, 366-A, 120-B of Indian Penal Code and Section 4 of Protection of Children from Sexual Offences Act 2012 Police Station City South Moga, District Moga (Annexure P-1) as the petitioner and respondent No. 2 had solemnized marriage and now they are living together.

FACTUAL MATRIX

2. FIR was lodged on the statement of of Ashok Kumar Sharma, who stated that he was working in medicine factory and had four children. Elder to all is his daughter Khushi Sharma, younger to her is Diya Sharma and youngest is Sonia Sharma and Manav Sharma is his youngest son. His daughter Khushi Sharma who is aged about 16/17 years and was studying in 10th class in RKS Public School Moga. On 06.11.2020 at about 6.15 AM her daughter

Khushi Sharma got up and came to the bed of her grand-mother Krishna and



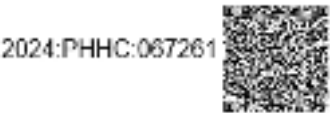
sat, to whom his mother asked that why you have got up early she replied that she is having headache and not getting sleep. His mother Krishna went to Gurdwara Sahib to pay her respect. While going she bolted the door from outside. About 10 minutes later his mother came back and that time door was opened and his daughter Khushi Sharma was not present in the house. Thereafter, my mother disclosed us that Khushi Sharma is not in the house, after awakening us. We started searching but Khushi Sharma was not found in the house or nearby. Later on they came to know that Pardeep Kumar @Veeru (petitioner herein) son of Satpal Singh resident of Near Gurdwara Akalsar Mistara Wali Gali who is our neighbourer had enticed his daughter Khushi Sharma by luring on the pretext of the marriage by convening with Pardeep Kumar @ Veeru's sister Simmi and his maternal aunt's son Avtar Singh @ Sunny son of Nachattar Singh near Pahara Singh Chowk and she was taken away. On these set of allegations, instant FIR was lodged.

CONTENTIONS

3. Learned counsel for the petitioner, at the outset, submits that respondent no. 2 purported to be the victim in the FIR (supra) has made a statement under Section 161 of Cr.P.C. on 01.12.2020 to the effect that her family forcibly engaged her with someone else and she wanted to marry with the petitioner and after that the girl/victim asked the petitioner to take her away from her house and in her statement she nowhere stated that the petitioner committed any act forcibly. She voluntarily went away with the petitioner and has now solemnized marriage with him and both of them are happily residing together since. It is further deposed by respondent no. 2, purported to be the victim, that the petitioner has been falsely implicated in the FIR (supra).

Learned counsel for the petitioner further submits that since petitioner and respondent no. 2 have solemnized their marriage with free will and are peacefully leading their matrimonial life together, the offences under Section 376, 363, 366-A, 120-B of Indian Penal Code cannot be made out. It is further contended that victim had given her age as 19 years when she appeared before the learned trial Court on 06.10.2021, which means that she was above 18 years of age at the time of alleged incident, and therefore, no offence under the Protection of Children from Sexual Offences is made out as well and therefore, continuation of proceedings in FIR (supra) would be an abuse of process of law. Learned counsel places reliance on the following:

Sr. No.	Case Title	Court
	K. Dhandapani v. The State 2022(2) R.C.R.(Criminal) 987	Hon’ble Supreme Court
2.	Ananda D.V. V. State and others 2021(OLR) 1074	
3.	Kapil Gupta v. State of NCT of Delhi and others 2022(4) R.C.R.(Criminal) 497	
4.	Jatin Aggarwal v. State of Telangana and others 2022(2)R.C.R(Criminal) 603	
5.	Ranjeet Kumar v. State of H.P. and others MANU/HP/2314/2013	Himachal Pradesh High Court (DB)
6.	Narinder Kaur @ Ninder Kaur and others v. State of Punjab and others CRM-M-41204-2020	Punjab and Haryana High Court
7.	Ashik Ramjan Ansari v. The State of Maharashtra and others 2023 CriLJ 3633	Bombay High Court
8.	Sabari v. Indpector of Police, Belukurichi Police Station and others 2019(3) R.C.R(Criminal) 452	Madras High Court
9.	Jitender Kumar Sharma v. State and others 2010(4) R.C.R.(Criminal) 20	Delhi High Court (DB)
10.	Skhemborlang Suting and others v. State	Meghalaya High Court



	of Meghalaya and others MANU/MG/0054/2022	
11.	Tarun Vaishnav v. State of Rajasthan and others MANU/RH/16181/2022	Rajasthan High Court
12.	Kundan and another v. State and others CrI.M.C. 27/2022	Delhi High Court
13.	Devendranath v. State of U.T. Chandigarh and Others CRM-M-23281-2023	Punjab and Haryana High Court

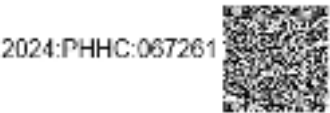
4. State has already submitted a reply dated 21.10.2022 by way of affidavit of Gursharanjit Singh, PPS, Deputy Superintendent of Police (City) Moga, District Moga and relevant portion of the said reply is reproduced hereinbelow:

- “5. That during investigation of the case on 01.12.2020 victim was recovered and she got recorded her statement u/s 161 Cr.P.C. that she is having relations with Pardeep Singh and she had informed about this to her parents, but family of victim did not give consent to this relationship. On 06.11.2020 she eloped with petitioner and started residing in a rental house where petitioner developed physical relations with her. Copy of he same is already on the file as Annexure P-2/T.
6. That the marriage certificate Annexure P-5 attached by the petitioner with the present petition is also found to be genuine and to this effect statement of Granthi of Gurudwara Sahib has also been recorded. As per his statement petitioner and victim had solemnized their marriage on 23.12.2021 with their free will.
7. That during trial of the case on 06.10.2021 victim deposed before the Ld. Court and she had not supported the version of the prosecution, statement of victim (Annexure P-4) is also correct.”

**ANALYSIS & OBSERVATION**

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that respondent no. 2 solemnized marriage with petitioner. A Full Bench of Delhi High Court in ***Court on its Own Motion(Lajja Devi) versus State 2012(4) CCR 72*** has held that if the girl is more than 16 years of age and makes a statement to the effect that she left of her own volition and records a statement indicating that the consent was without any force, coercion or undue influence, the Court will be within its power to accept the statement and quash proceedings under Section 363 or 376 of the IPC. It has been further held that the FIR can be quashed if after attaining the age of majority, she affirms and reiterates her consent.

7. Respondent no. 2 has now attained the age of majority and wants to continue with her matrimonial life and has made a statement under Section 161 of Cr.P.C. wherein she has asserted that she left with the petitioner with her own consent and is happily married to him. If the criminal proceedings against the petitioner allowed to continue, not only will it lead to unnecessary incarceration of the petitioner but also leave respondent no. 2 bereft of financial and emotional support. Thus, no useful purpose would be served by continuing the proceedings as the chances of conviction are abysmal. The continuance of the present proceedings in the present case would be nothing but wastage of valuable judicial time, especially, when the Courts are already over-burdened.



CONCLUSION

8. In view of above facts and circumstances, the present petition is allowed.
9. Accordingly, the FIR No. 186 dated 18.11.2020 registered under Sections 376, 363, 366-A, 120-B of Indian Penal Code and Section 4 of Protection of Children from Sexual Offences Act, 2012 at Police Station City South Moga, District Moga and all other consequential proceedings arising therefrom, are quashed qua the petitioner.
10. Pending CRM(s), if any, are also disposed of accordingly.

May 14, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No