



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

CRM-M-22563-2013 (O&M)

Reserved on: 13.05.2024

Date of Pronouncement: 24.05.2024

SHWETA JASROTIA AND OTHERS

.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Inderjit Singh, Advocate for
for the petitioners.

Mr. Pardeep Bajaj, DAG, Punjab.

Mr. Vipin Mahajan, Advocate and
Mr. R.S. Pathania, Advocate,
for respondent no.2.

KULDEEP TIWARI, J.

1. Both the petitioners are husband and wife, solemnized marriage against the wishes of complainant/respondent no.2 (being father of petitioner no.1), has knocked the doors of this Court by filing the instant petition under Section 482 of the Cr.P.C. for quashing of FIR No.51, dated 17.05.2013, registered under Sections 419 and 120-B of the IPC, at Police Station Sadar Gurdaspur, District Gurdaspur.
2. Respondent no.2, who is the father of petitioner no.1, is complainant in the instant FIR, whereby, he made a complaint against his

daughter-Shweta Jasrotia-petitioner no.1, and his son-in-law-Puneet Singh (petitioner no.2), and also against one Narain Chand Sharma (Pandit) who solemnized the marriage of the petitioners, alleging therein, that on dated 30.07.2012, petitioner no.2, one Bahadur Singh and Mohinder, and some other known persons, enticed his daughter for purpose of marriage with petitioner no.2 and a marriage certificate was forged and fabricated by one Naraian Chand Sharma (Pandit). The marriage certificate, as issued by Narain Chand Sharma (Pandit), at the place for the signatures of father/mother, one Mohinder put his signatures by impersonating himself as father of complainant's daughter-Shweta (petitioner no.1). Whereas, there is no person in the family of the complainant, whose name is Mohinder. After conducting a preliminary inquiry, the instant FIR was registered, it was found that in the relevant column of marriage certificate, where the signatures of parents were required, one Mohinder, having impersonated himself as a father of petition no.1. On the basis of the above complaint, instant FIR was registered.

3. Submissions made by learned counsel for the petitioners:-

- i). Learned counsel for the petitioner, in asking for the relief (*supra*), submits that no marriage certificate has, infact been forged, rather in the marriage certificate there is a column meant for signatures of “father/mother/guardian”, one Mohinder has put his signatures as the “guardian” and not as a “father” of

petitioner no.1-Shweta. Therefore, no offence of impersonation and cheating is made out.

ii) He further submits that in fact both the petitioners have solemnised their marriage against the wishes of respondent no.2, therefore, to wreck vengeance the instant FIR has been lodged.

iii) He also submits that the present petitioners have also preferred a protection petition vide CRM-M-25431-2012, before this Court as they were apprehending danger to their life and liberty at the hands of respondent no.2.

iv) He further submits that the petitioners have not committed any sin by solemnizing marriage, as per their own wishes, as both were major.

v) He further submits that both the petitioners have settled in their matrimonial life, and have also blessed with a child.

4. Submissions made by learned counsel for the complainant/respondent no.2.

The submissions made learned counsel for the petitioner, has been vociferously opposed by learned counsel for respondent no.2, and submits that the signatures of the complainant/respondent no.2, have been forged by one impersonator Mohinder, therefore, the marriage certificate which was issued by Narain Chand Sharma (Pandit), is bogus and fake certificate.

Analysis

5. This Court has analysed the submissions made the learned counsel for the both the parties concerned, as well as the marriage certificate.

6. On close scrutiny of the marriage certificate, it reflects that the column in which one Mohinder has appended his signatures pertains to “father/mother/guardian”. Therefore, the allegation that Mohinder has impersonated as “father” of petitioner no.1, are in fact incorrect allegations. Mohinder has signed as a “guardian”, and not as a “father” of petitioner no.1. Further, the consent of the father or mother or guardian, is not at all essential for the petitioners, who have attained the age of majority, as to solemnise the marriage.

7. The Hon’ble Supreme Court has, in its judgment rendered in **“Laxmibai Chandaragi B & Anr. V/s The State of Karnataka & Ors.”, Writ Petition (Criminal) No.359/2020, Decided on: 08.02.2021**, held in unambiguous terms that consent of family, community or clan is not necessary once two adult individuals agree to enter into a wedlock.

The relevant paragraph of this judgment is extracted hereinafter:-

“10. We are fortified in our view by earlier judicial pronouncements of this Court clearly elucidating that the consent of the family or the community or the clan is not necessary once the two adult individuals agree to enter into a wedlock and that their consent has to be piously given primacy. It is in that context it was further observed that the choice of an individual is an inextricable part of dignity, for dignity cannot be thought of where there is erosion of choice. Such a right or choice is not is not expected to succumb to the concept of “class honour” or “group thinking.”

8. The High Court of Delhi, in **W.P. (CRL) 3045/2023**, **decided on: 17.10.2023**, has also observed that the right to marry is an

incident of human liberty. The relevant paragraphs of this judgment are extracted hereinafter:-

“5. The right to marry is an incident of human liberty. The right to marry a person of one's choice is not only underscored in the Universal Declaration of Human Rights, but is also an integral facet of Article 21 of The Constitution of India, which guarantees the right to life.

7. When the parties herein are two consenting adults who have chosen to willingly agree to join hands by way of marriage, there can hardly be any impediment on the way, be it from the parents/ relatives or the Society at large or the State. There is nothing left for anybody to interfere in the lives of the parties herein...”

9. Moreover, the Hon’ble Supreme Court has, in its judgment titled as **“Shakti Vahini V/s Union of India and Others”, Writ Petition (Civil) No.231 of 2010, Decided on: 27.03.2018**, issued certain guidelines for ensuring protection of couples who marry against the wishes of their families or clan, and, also observed as under:-

“Assertion of choice is an inseparable facet of liberty and dignity. That is why the French philosopher and thinker, Simone Weil, has said:-

“Liberty, taking the word in its concrete sense consists in the ability to choose.”

When the ability to choose is crushed in the name of class honour and the person’s physical frame is treated with absolute indignity, a chilling effect dominates over the brains and bones of the society at large. The question that poignantly emanates for consideration is whether the elders of the family or clan can ever be allowed to proclaim a verdict guided by some notion of passion and eliminate the life of the young who have exercised their choice to get married against the wishes of their elders or contrary to the customary practice of the clan. The answer has to be an emphatic “No”. It is because the sea of liberty and the ingrained sense of dignity do not countenance such treatment inasmuch as the pattern of behaviour is based on some extraconstitutional perception. Class honour, howsoever perceived, cannot smother the choice of an individual which he or she is entitled to enjoy under our compassionate Constitution. And this right of enjoyment of liberty deserves to be continually and zealously guarded so that it can thrive with strength and flourish with resplendence. It is also necessary to state here that the old order has to give way to the new. Feudal perception has to melt into oblivion paving the smooth path for liberty. That is how the statement of Joseph J. Ellis becomes relevant. He has propounded:-

“We don’t live in a world in which there exists a single definition of honour anymore, and it’s a fool that hangs on to the traditional standards and hopes that the world will come around him.”

2. Presently, to the factual score. The instant Writ Petition has been preferred under Article 32 of the Constitution of India seeking directions to the respondents- State Governments and the Central Government to take preventive steps to combat honour crimes, to submit a National Plan of Action and State Plan of Action to curb crimes of the said nature and further to direct the State Governments to constitute special cells in each district which can be approached by the couples for their safety and well being. That apart, prayers have been made to issue a writ of mandamus to the State Governments to launch prosecutions in each case of honour killing and take appropriate measures so that such honour crimes and embedded evil in the mindset of certain members of the society are dealt with iron hands.”

10. It is also relevant to mention that one of the co-accused Narain Chand Sharma (Pandit), who solemnized the marriage of both the petitioners, had approached this Court by preferring a petition, seeking quashing of the instant FIR, vide CRM-M-2002-2014, which was allowed by a co-ordinate Bench of this Court vide its judgment dated 22.08.2014, and the FIR (*supra*), was ordered to be quashed *qua* Narain Chand Sharma (Pandit).

11. The relevant observation therein reads as under:-

“In the present case, respondent No.2 has lodged the FIR in question against the petitioner, Puneet Singh and his daughter Shweta. The daughter of the complainant was having a love affair with Puneet Singh and they have got married. The said marriage was performed by the petitioner as per Hindu rites. It has also transpired, during the course of arguments, that Shweta and Puneet Singh are residing together as husband and wife and have been blessed with a child. It appears that the FIR in question was lodged merely because respondent No. 2 was not happy with the fact that his daughter had performed marriage with Puneet Singh without his consent.”

12. This Court finds merits in the instant petition. Both the petitioners had solemnized marriage, with their own wish, without any threat, coercion, inducement and undue influence, however without the consent of the complainant/respondent no.2 (father of petitioner no.1), who nurtured vengeance against his own daughter (petitioner no.1), filed the instant FIR on incorrect facts.

13. As observed above, there is no impersonation on behalf of the complainant/respondent no.2, rather Mohinder has appended his signature as a guardian, at the relevant column in the marriage certificate. Since the basic allegations, are based on false averments, therefore the FIR (*supra*), is not legally sustainable.

FINAL ORDER

14. In view of the above observation, the instant petition is **allowed**, and FIR No.51, dated 17.05.2013, registered under Sections 419 and 120-B of the IPC, at Police Station Sadar Gurdaspur, District Gurdaspur, is hereby **quashed** *qua* the present petitioners.

May 24, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes
Whether Reportable.	:	Yes