

CRM-M-21196-2023(O&M)
Date of decision: 03.04.2024

...Petitioner

V/S

...Respondents

Mr. Kripal Singh, Advocate
for respondent No. 3.

HARPREET SINGH BRAR J. (ORAL)

1. The present petition has been preferred under Section 482 Cr.P.C. seeking quashing of FIR No. 11 dated 22.01.2022 registered under Sections 363, 366-A of the IPC at Police Station Shimlapuri, Ludhiana.

2. Briefly, the facts are that respondent no. 2 registered a complaint against the petitioner alleging that on 21.01.2022, he had enticed away his daughter-respondent no. 3, aged 17 years 11 months at the time of the incident. During the course of the proceedings, respondent no. 3 suffered a statement to the effect that she went with the petitioner of her own volition and thereafter marriage was solemnised between them on 28.02.2022. In view of the same, anticipatory bail was granted to the petitioner vide order dated 17.03.2022 (Annexure P-5).

3. Learned counsel for the petitioner inter alia contends that petitioner and respondent no. 3-daughter of respondent no.2-complainant, eloped after falling in love with each other, due to opposition from their respective families. Although respondent no. 3 had not attained the age of

majority at the time of the incident, the relationship between both of them was consensual and devoid of any *mens rea*. The proximity of the age between the petitioner and respondent no. 3- daughter of the complainant must be given due consideration and a compassionate view be taken considering their young age and nature of circumstances. The couple got married on 28.02.2022 according to Hindu rites and rituals and were granted protection by learned Additional Session Judge, Ludhiana vide order dated 24.03.2022. Reliance in this regard can be placed upon the following:

Sr. No.	Case Title	Court
1.	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 of Meghalaya and others MANU/MG/0054/2022	Meghalaya High Court
11.	Tarun Vaishnav v. State of Rajasthan and others MANU/RH/16181/2022	Rajasthan High Court
12.	Kundan and another v. State and others	Delhi High Court

	Crl.M.C. 27/2022	
13.	Devendranath v. State of U.T. Chandigarh and Others CRM-M-23281-2023	Punjab and Haryana High Court

4. Having heard the learned counsel for the petitioner and after perusing the record with his able assistance, it transpires that respondent no. 3 solemnised marriage with the petitioner on 28.02.2022. The marriage between two persons who do not satisfy the age criterion, as laid down by Section 5 of the Hindu Marriage Act, 1955, does not become void *ab inito*. Such a marriage would be voidable at the instance of the minor party. Therefore, in absence of such declaration in view of the Prohibition of Child Marriage Act, 2006, the marriage subsists and the husband can be the legal guardian of his minor wife, as reaffirmed by a Division Bench of this Court in ***Mamta v. Rohan Verma 2022(2) R.C.R.(Civil) 349***. 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.

5. Respondent no. 3 has attained the age of majority and wants to continue with her matrimonial life and has recorded her statement under Section 164 Cr.P.C. wherein she has asserted that she left with the petitioner with her own consent and is happily married to him. She has also tendered an

affidavit dated 24.03.2023 to this effect (Annexure P-7). 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.3 bereft of financial and emotional support. Therefore, this Court is of the considered view that justice can only be substantially realised if the FIR in the present case is quashed.

6. In view of the above discussion, the present petition is allowed and FIR No. 11 dated 22.01.2022 registered under Section 363, 366-A of the IPC at Police Station Shimlapuri, Ludhiana and its subsequent proceedings are quashed qua the petitioner.

7. Pending miscellaneous application(s), if any, also stand disposed of.

April 03, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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