

CRM-M-42073-2018
Date of decision: 10.04.2024

...PETITIONERS

V/S

...RESPONDENTS

Present: Mr. Rahul Bhargava, Advocate and
Mr. Tanveer Singh, Advocate for the petitioners.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR No.106 dated 23.07.2017 registered under Sections 363/366-A/342/120-B IPC at Police Station Majitha, District Amritsar Rural (Annexure P-1) and all the subsequent proceedings arising therefrom.

2. Learned counsel for the petitioners *inter alia* contends that no offence as alleged in the FIR is made out against the petitioners. The whole story put forward by respondent No.2 is only to harass the petitioners by falsely implicating them as petitioner No.1 was opposed to the love marriage with respondent No.2. It is further contended that respondent No.3-sister of the complainant had eloped with petitioner No.1, after having consensual love affair. The reason for her elopement was that she wanted to perform marriage with petitioner No.1, which was not approved by her brother/complainant-respondent No.2. It is further contended that it is an admitted case as mentioned in the FIR (supra) that earlier also, the sister of the complainant i.e. respondent No.3 had eloped with petitioner No.1 to perform marriage however,

she was apprehended by respondent No.2 and with the intervention of the respectables, the matter was compromised. The statement of respondent No.3 was recorded under Section 164 Cr.P.C. by the concerned jurisdictional Magistrate, in which, she has clearly stated that her mother had died and she is having a love affair with petitioner No.1, for the last two years and with her own sweet will, she eloped with him. It is further stated by her that she wants to perform marriage with petitioner No.1 and wants to live with him and further, she apprehends that she would be beaten up, in case she returns to her parental house.

3. Learned counsel for the petitioners further relies upon Annexures P-9 and P-10 and submits that these are the certificate of marriage and photographs respectively, which clearly show that the sister of respondent No.2 has voluntarily married with petitioner No.1 and continuation of proceedings in the FIR (supra) would be a clear 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 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 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. There is no representation on behalf of respondent No.3.
5. Learned State counsel submits that at the time of the incident, respondent No.3 had not completed the age of 18 years, however, he could not controvert the fact that there is a close proximity of age between the petitioner No.1 and respondent No.3 and also that both of them are cohabiting together as husband and wife.

ANALYSIS & OBSERVATION

6. 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 petitioner no.1. 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.

7. Respondent no.3 has now attained the age of majority and wants to continue with her matrimonial life and in her statement, 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.3 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.

8. In view of above facts and circumstances, the present petition is allowed.

9. Accordingly, the FIR No.106 dated 23.07.2017 registered under Sections 363/366-A/342/120-B IPC at Police Station Majitha, District Amritsar Rural (Annexure P-1) and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

April 10, 2024
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(HARPREET SINGH BRAR)
JUDGE

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