



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

CRM-M-45535-2017
Date of decision: 21.10.2024

Sandeep

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. S.S. Kainth, Advocate for the petitioner.

Mr. P.K. Aggarwal, DAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner seeking quashing of FIR No.745 dated 16.11.2017 Annexure P-1, registered under Section 365 IPC, at Police Station Sonipat City.

2. The brief facts of the case are that respondent No.2/complainant Seema wife of Charan Singh reported to the police that her daughter Nancy (respondent No.3) a student of B.A. Second Year in Tikka Ram College, started to work with petitioner Sandeep who was running a shop, where he used to sell different forms. Petitioner gave false promise to Nancy to adjust her in a government job. Petitioner also started visiting the house of the complainant to which the parents of respondent No.3 raised objection. On 15.11.2017, Nancy went to attend her college and at about 02:30 PM, Nancy made telephone call to the complainant and told her that she is not going to return to her house and has gone somewhere.

The complainant came to know that petitioner was also missing from his



house. The complainant was having doubt that her daughter Nancy was enticed by the petitioner to leave her house. On the basis of the said statement, FIR Annexure P-1 was registered in the present case.

3. On 30.11.2017, when the notice of motion was issued, respondent No.3 was present in the Court along with her counsel and she admitted the correctness of her affidavit Annexure P-2. She further stated that she had voluntarily left her house and the allegations made in the FIR Annexure P-1 are false.

4. In response to notice of motion, State filed reply by way of affidavit of Mukesh Kumar, Deputy Superintendent of Police, Head Quarter, Sonipat.

5. Thereafter, Ms. Kamlesh Khatri, Advocate filed reply on behalf of respondents No.2 and 3 under her signatures wherein it was pleaded that petitioner took signatures of Nancy under threat and misused the same to prepare alleged affidavit of Nancy which was submitted by the petitioner in this Court. In the reply, it was also pleaded that petitioner kidnapped Nancy on 15.11.2017.

6. The counsel for the petitioner while assailing the FIR Annexure P-1, submits that Nancy was more than 18 years of age at the time of alleged occurrence. It is further submitted that there was no friendship between the petitioner and Nancy. That actually wife of petitioner namely Shabnam was knowing Nancy and it being so, Nancy used to visit the house of the petitioner to meet his wife Shabnam. However, the parents of Nancy were not happy with the said friendship of Shabnam with their daughter Nancy. However, Nancy kept on visiting the house of the petitioner to meet



his wife Shabnam. In order to stop Nancy from visiting the house of the petitioner, the parents of Nancy lodged false complaint with the police against the present petitioner. It is further submitted that the allegations made in the FIR are totally false and this fact is also established from the perusal of the statement made by respondent No.3-Nancy on 30.11.2017 while appearing in this Court, wherein she admitted that affidavit Annexure P-2 given by her is genuine and correct.

7. For the last so many dates, there is no representation on behalf of respondents No.2 and 3.

8. The State counsel while supporting the impugned FIR Annexure P-1, submits that there are specific allegations against the petitioner that he kidnapped respondent No.3 on 15.11.2017. That even in their written reply, respondents No.2 and 3 have reiterated the contents of the FIR. In the said written reply, it has been clarified that no such affidavit as alleged by the petitioner was ever executed by respondent No.3. Actually, petitioner took signatures of respondent No.3 on certain blank papers by putting pressure on her. That one of the said papers was misused by the petitioner to prepare affidavit Annexure P-2 purported to be executed by respondent No.3-Nancy in his favour. The petitioner cannot take any benefit of the said affidavit in any manner. It is further submitted that the present petition deserves to be dismissed being devoid of merits.

9. I have considered the submissions made by counsel for the parties.

10. It is not disputed that at the time of occurrence in question, respondent No.3-Nancy was more than 18 years of age.



11. As per the allegations recorded in FIR Annexure P-1, the petitioner kidnapped respondent No.3-Nancy on 15.11.2017. The present petition was filed by the petitioner seeking quashing of said FIR Annexure P-1, on 29.11.2017. On 30.11.2017, when the present petition was listed for hearing, respondent No.3 marked her presence and she appeared in person along with her counsel Mr. P.K.S. Phoolka, Advocate, who filed power of attorney on behalf of respondent No.3. On that date, the following order was passed by this Court:-

*Present: Mr. S.S. Kainth, Advocate,
for the petitioner.*

Appearance has been caused by Mr. P.K.S. Phoolka, Advocate and filed vakalatnama on behalf of complainant-respondent No.3, daughter of the complainant, who is also present in person, submits that the affidavit furnished by her annexed with this petition as Annexure P-2 is genuine and that she had voluntarily left her house and the allegations as made out in the FIR No. 745 dated 16.11.2017 (Annexure P-1) under Section 365 IPC, registered at Police Station Sonipat City, District Sonipat, are false.

Notice of motion for 20.02.2018.

In the meantime, arrest of the petitioner as well as the proceedings under the FIR in question are stayed till the next date of hearing.

*30.11.2017
Satyawar*

*Sd/-
JUDGE*

12. From the perusal of the said order, it is evident that respondent No.3 appeared in this Court on 30.11.2017 along with her counsel and she admitted the correctness and genuineness of affidavit Annexure P-2 which was executed by her on 28.11.2017. She further made statement that the allegations made in FIR Annexure P-1 which was registered under Section 365 IPC are false as she voluntarily left her house. These facts were also admitted by respondent No.3 in aforesaid affidavit Annexure P-2 wherein she stated that she was not enticed and detained by petitioner or any other person. That she left her house because of conservative nature of her parents.



In affidavit Annexure P-2, respondent No.3 has also clarified that she left her house on 15.11.2017 with her own accord and before leaving the house, she informed her mother Seema on her mobile phone.

13. After the recording of aforesaid statement of respondent No.3, complainant and respondent No.3 filed written reply under the signatures of their counsel wherein allegations made in the FIR were reiterated. As in the said written reply, respondent No.3 stated contrary to her earlier statement dated 30.11.2017, the parties were directed to appear in person in the Court vide order dated 31.08.2022. Thereafter, respondents No.2 and 3 failed to appear in the Court in compliance of the aforesaid order. Finally, the counsel also stopped appearing on behalf of respondents No.2 and 3

14. In the given circumstances, in the light of the statement dated 30.11.2017 made by respondent No.3 wherein the said respondent admitted her affidavit Annexure P-2 and further, made statement that she left the house of her own, it could be easily made out that the allegations made in the FIR Annexure P-1 are not true. Thus, the continuation of the said FIR and all the subsequent proceedings arising therefrom would amount to miscarriage of justice, and deserve to be set aside.

15. In light of the above, the present petition is allowed and FIR No.745 dated 16.11.2017 Annexure P-1, registered under Section 365 IPC, at Police Station Sonipat City, and all the subsequent proceedings arising therefrom are hereby quashed qua the present petitioner.

21.10.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No