

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

**CRM-M-26671-2023
Date of Decision:02.04.2024**

Alka Rani and Anr.

...Petitioners

Vs.

State of Haryana and Anr.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Ms. Divya Narula, Advocate
 for the petitioners.
 (Through VC)

Mr. Karan Garg, AAG, Haryana.

N.S.Shekhawat J.

1. The petitioners have filed the present petition under Section 482 Cr. P.C with a prayer to quash the FIR No.157 dated 17.05.2023, under Section 346 of IPC, Police Station Kalanwali, District Sirsa (Annexure P-1) and all subsequent proceedings arising therefrom.
2. The FIR in the present case was registered on the basis of the statement made by Mahinder Singh, respondent No.2, maternal uncle of petitioner No.1 and the same has been reproduced below:-

“To, The SHO I Mahinder Singh S/o Goru Ram R/o Vill. Kalanwali, Distt. Sirsa. My Niece Alka Rani D/o Chander Pal R/o Gillwala Tibbi, Distt Hanumangarh, Aged 23 years, was residing with me from past 20-21 years in Vill. Kalanwali That on 16.05.23 after having dinner we all slept On 17.05.23 morning, I saw that my niece Alka Rani was not there on her folding. I alongwith my other family members tried finding her, but couldn't found her. It is requested that she must be found out. Sd- Mahinder Singh S/o Goru Ram.”

3. Learned counsel for the petitioner contends that the petitioner No.1 is major and her date of birth is 24.04.1998 and she is aged about 25 years. For the last 20/21 years she was living at the house of her maternal uncle i.e. respondent No.2/complainant. However, respondent No.2 wanted the petitioner No.1 to perform the marriage with some person, against her wishes. Consequently, on 16.05.2023, petitioner No.1 managed to run away from the house of her maternal uncle and started living with petitioner No.2 out of her own free will. Even the petitioner No.2 is major, who is aged about 21 years. Since the respondent No.2/complainant threatened both the petitioners, they filed a case bearing No. CRWP-4943-2023 titled as **“Alka Rani and Anr. Vs. State of Haryana and Others”** before this Court and prayed for issuance of directions to official respondents to protect the life and liberty of the petitioners and also for directing the present respondent No.2/complainant not to interfere in their lives and liberty. The said petition was disposed of by this Court on 22.05.2023 and the Superintendent of Police, Sirsa was directed to depute a senior officer to look into the matter and after seeking a report, he was to pass an appropriate orders, in accordance with law. Learned counsel further contends that since the petitioner No. 1 was major on the date of occurrence and had left the house of her maternal uncle, out of her own free will and was voluntarily staying with petitioner No.2, no offence was made out in the present case. Still further, the respondent No.2 had no locus to lodge the present FIR and the FIR is an instrument of misuse of the process of law.

4. On the other hand learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that

during the course of investigation, earnest efforts were made to trace the petitioner No.1, but she could not be found. However, order passed by this Court in CRWP-4943-2023 titled as **“Alka Rani and Anr. Vs. State of Haryana and Others”** was received and the statement of respondent No.2/complainant-Mahinder Singh son of Sh. Goru Ram, resident of Village Kalanwali was recorded which is as under:-

“Stated that I am resident of abovesaid address. I am employed in Government school Kalanwali. My niece (Bhanji) Alka Rani daughter of Chanderpal was residing with me at Kalanwali since 20-21 years. I had managed the education of Alka Rani. In the night of 16.05.2023, my niece Alka Rani had left home without informing anyone. In this regard I got registered a case in PS Kalanwali. Today I came to know that my niece Alka Rani is living in live-in-relationship with a boy of Kalanwali namely Veera Singh son of Janta Singh, resident of ward No.3, Kalanwali, aged 30 years. We came to know through Police Station. My niece is major, aged about 25 years and she knows her welfare and I and my family have no objection regarding decision of Alka and I and my family does not say anything to Veera Singh. I have got written my statement, which is correct”.

5. Learned State counsel further contends that the petitioners have not joined the investigation and after recording their statements, appropriate action shall be taken in the present case.

6. I have heard learned counsel for the parties and perused the record.

7. The police has added the offence under Section 346 of IPC in the present case and the same has been reproduced below:-

346. Wrongful confinement in secret.-Whoever wrongfully confines any person in such manner as to indicate an intention that

the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

8. In the present case, it is established that the petitioner No.1 was admittedly major as her date of birth is 24.04.1998 and she was aged about 25 years at the time of incident. She left the home voluntarily on 16.05.2023 and filed a CRWP-4943-2023 titled as **“Alka Rani and Anr. Vs. State of Haryana and Others”** before this Court and this Court had disposed off the said petition with a direction to the Superintendent of Police, Sirsa to depute a senior officer to look into the matter and after seeking a report, he may pass an appropriate orders, in accordance with law. Consequently, it can never be stated that the petitioner No.1 was in wrongful confinement anywhere. Both the petitioners, who were major and decided to live together in a live-in-relationship and there was no question of wrongful confinement by any other persons. Even during the course of investigation, the police had recorded the statement of Mahinder Singh, respondent No.2 and he clearly stated that he and his family had no objection regarding the decision of petitioner No.1. Thus, apparently the continuation of proceedings arising out of FIR No.157 dated 17.05.2023, under Section 346 of IPC, Police Station Kalanwali, District Sirsa (Annexure P-1) would be an abuse of the process of the Court and would not serve any meaningful purpose.

9. Thus, the present petition is allowed and the FIR No.157 dated 17.05.2023, under Section 346 of IPC, Police Station Kalanwali, District Sirsa (Annexure P-1) and all subsequent proceedings arising therefrom are hereby ordered to be quashed.

02.04.2024.
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No