

CRM-M-33470-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33470-2021

Date of decision:07.06.2024

Mohd. Yamin @ Harpreet Singh and others

....Petitioners

V/s

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOELPresent: Mr. Amit Kumar Walia, Advocate for the petitioners.
(through Video Conference)

Mr. Anup Singh, AAG Punjab.

Mr. Dharamvir Sharma, Advocate for respondent No.2.

None for respondent No.3.

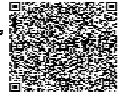
SUMEET GOEL, J.

1. The present petition has been filed, under Section 482 of the Code of Criminal Procedure Code of 1973 (hereinafter to be referred as "Section 482"), by the petitioners for quashing of FIR No. 65 dated 02.06.2020 (impugned FIR) registered under Sections 363/366-A/120-B of Indian Penal Code, 1860 at Police Station City-II, Malerkotla, District Sangrur, Punjab and all consequential proceedings arising therefrom.

2. It would be pertinent to refer herein to the factual matrix of the present *lis*:

(i) The impugned FIR, as spelt out in the present petition, is as follows;

"Statement of Rajesh Verma son of late Sh Sukhdev Raj Verma resident of Inside Kelon Gate Malerkotla age about 43 years mobile No. 9915749003 stated that I am a resident of above said address and I am doing work of



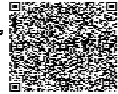
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Goldsmith. I am married to Ramta Verma daughter of Balakrishan resident of Samrala and we have 2 daughters and name of elder daughter is Akshita Verma whose ages is 17 years 8 months and 2nd daughter's name is Deepti Verma whose age is 11 and 1/2 years. On dated 28th of May 2020 I along with my wife and younger daughter went to my in- laws house at Samrala and I left my elder daughter into the house of my elder brother's namely Pawan Verma and on dated 29.05.2020 my brother called me at 3 AM that your elder daughter Akshita Verma went into her house and at about 12:50 AM when I woke up to urinate and I have found that your daughter Akshita was not on bed and I enquired about her from outside and neighbour's and I came to know that Mohammad Yamin son of Roshandeen take her into his house on the false pretext of marriage than my brother Pawan Verma alongwith other family members went to family of Mohammadi Yamin and who saw my daughter Akshita Verma was present in his house. My brother Pawan Verma took her back into our house at that time then after hearing this I returned back to our home at 5 AM on dated 29.05.2020 than I enquired about whole incident then I came to know that above said Mohammad Yamin on the false pretext of marriage took my daughter to into his house and in this whole incident Mohammad Yamin along with his mother Nazma and his father Roshandeen resident of Monalla Baradari Malerkotla connivance with each other entice my daughter and took my daughter into their house on the false pretext of marriage and strict action be taken against them. I have recorded my statement to you which same has read over to me and it is correct sd/ Rajesh Verma verified by sd/ Pawan Verma son of late Sukhdev Sharma inside Kelon Gate Mobile No. 9814136708 verified by Jagjeet Singh INSP Police Station City 2 Malerkotla Dated 02.06.2020.”

The complainant/informant in the impugned FIR is one Rajesh Verma, who has been impleaded as respondent No.3 herein and the victim is his daughter namely Akshita Verma, who has been impleaded as respondent No.2 (herein).

(ii) It is pleaded in the petition that after registration of the impugned FIR, the statement of respondent No.2 was recorded by the Police wherein she stated that she had voluntarily gone to the house of petitioner



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No.1 on her own will as she intended to meet petitioner No.1. As she raised the allegations of harassment and beatings against her family members and also refused to join the company of her parents, she was sent to Nari Niketan, Jalandhar. Thereafter, concededly, the petitioner No.1 was got married with the victim (respondent No.2 herein) and had been living happily together as husband and wife.

(iii) The petitioner Nos.2 and 3, who are parents of petitioner No.1, were granted the concession of anticipatory bail by the Additional Sessions Judge, Sangrur vide order dated 04.07.2020 whereas petitioner No.1 was granted the concession of pre-arrest bail by this Court vide order dated 13.08.2020 passed in CRM-M-22599-2020, after his plea for grant of pre-arrest bail was declined by the Court below vide order dated 30.07.2020. It is worthwhile to note that, while disposing of the bail petition of petitioner No.1, a statement was made on behalf of petitioner No.1 before this Court and the same reads as under:

“Counsel for the petitioner would state that in pursuance of interim directions issued by this Court, the petitioner has already joined investigation. It is further submitted that petitioner has performed marriage with the alleged kidnapped girl and both of them filed a petition seeking protection to their life and liberty by filing CRWP No.8176 of 2020 decided by this Court vide order dated 09.10.2020.

Counsel for the State concedes to the factum of petitioner having joined investigation and would state that custodial interrogation of the petitioner is not required.

In view of the above, the petition stands disposed of. Interim bail granted to the petitioner vide order dated 13.08.2020 is made absolute subject to conditions incorporated therein.”



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(iv) After solemnization of marriage, petitioner No.1 and respondent No.2 filed a petition for protection of their life and liberty before this Court vide CRWP-8176-2020 which was disposed of vide order dated 09.10.2020; relevant whereof reads as under:

“The petition is disposed of directing respondent No.2 Senior Superintendent of Police, Sangrur to look into the representation Annexure P6, assess threat perception to the petitioners and then take suitable action in the matter, if so required in accordance with law.

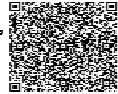
However, this order shall not validate the marriage between the petitioners and shall not have any effect on any civil or criminal action to which the petitioners may be found liable, under the law.”

(v) It is in this factual backdrop that the quashing of the impugned FIR as also all proceedings arising therefrom has been sought for.

3. Learned counsel for the petitioners has argued that the petitioner No.1 and the victim were having an affair whereinafter they got married on 01.10.2020, the victim was major at the time of marriage as also registration of the impugned FIR; the petitioner No.1 and the victim have been happily living together and the continuation of the proceedings *qua* the impugned FIR would amount to gross abuse of process of law. Hence, quashing of the impugned FIR as also all proceedings arising therefrom has been sought for.

3.1 The State of Punjab has filed a short reply dated 20.04.2022, relevant whereof reads as under:-

“2. That on 30.05.2020 Pawan Verma produced Akshita Verma (Respondent No. 2) before lady/SI Kamalpreet Kaur No. 28/PRT. Akshita Verma (Respondent No. 2) recorded her statement before lady/SI Kamalpreet Kaur that she herself had left the house of her father Rajesh Verma (Respondent No. 3). She also stated in her statement that she



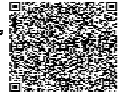
herself gone with Mohd. Yamin to his house when she was locked by her parents in the house as she was intended to meet Mohd. Yamin. She further stated that Mohd. Yamin neither used any force against her nor had he developed physical relation with her. She also raised allegations of harassment and beating against her family members/uncle/cousins. Further when she refused to accompany her family members on the ground of apprehension to her life from their hands, she was sent to Children Home, Gandhi Vineeta Ashram Jalandhar after obtaining the order dated 31.05.2020 from child welfare committee Sangrur.

3. *That on 02.06.2020, on the basis of statement of Rajesh Verma (Respondent No. 3) a case FIR No. 65 dated 02.06.2020 u/s 363, 366, 120B IPC was registered against Mohd. Yamin (Petitioner No. 1), Mohd. Roshan Din (Petitioner No. 2) and Nazama (Petitioner No.3) wife of Roshan Din at Police Station City-2 Malerkotla.*

4. *That after obtaining order from Child Welfare Committee Sangrur, Akshita Verma (Respondent No. 2) brought from child Home Gandhi Veenita Ashram Jalandhar and produced in the court of Sh. Jagwinder Singh JMIC (Duty) Malerkotla on 09.06.2020 for recording her statement u/s 164 C.rpc. After recording statement u/s 164 C.rpc Akshita Verma was sent to Home Gandhi Veenita Ashram Jalandhar.*

5. *That Mohd. Roshan Din @ Roshan (Petitioner. 2) and Nazma (Petitioner No. 3) wife of Mohd. Roshan Din @ Roshan were appeared before the investigating officer on 06.07.2020 along with interim anticipatory bail order dated 04.07.2020 of Addl. Sessions Judge and joined the investigation and released on bail. Interim anticipatory bail order dated 04.07.2020 was made absolute vide order dated 15.07.2020. Further Mohd. Yamin (Petitioner No. 1) appeared before Investigating Officer on 16.08.2020 along with anticipatory bail order dated 13.08.2020 passed in CRM-M-22599 of 2020 by this Hon'ble Court and Joined the investigation and released on bail. Interim anticipatory bail order dated 13.08.2020 was made absolute vide order dated 15.10.2020. That the case is under investigation. After completion of investigation challan was prepared by SHO on 18.04.2021 and same is pending for present in the court because awaiting the order of High court.*

6. *That the record has been checked and no other case is found to have been registered against the petitioners except the present one."*



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Learned State counsel has made submissions in tandem with the aforesaid short reply filed by the State of Punjab.

3.2 Learned counsel appearing for respondent No.2 has made submissions in tandem with the submissions made by learned counsel for the petitioners.

3.3. Service of the instant petition was effected upon the complainant/informant-respondent No.3. However, neither he has appeared in person nor has chosen to appear through counsel.

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

5. It would be apposite to refer herein to a judgment of this Court passed in **CRM-M-4660-2020** titled as **Surjit Rai vs. State of Punjab and others**, decided on 05.06.2024; relevant whereof reads as under:-

“8. More often than not, this Court is faced with an incessant stream of petitions wherein the father/guardian has got registered an FIR by stating that his daughter has been enticed away by the accused. As the factual position gradually unfolds; it is found that the accused and the victim were earlier in a relationship and have, in some cases, later on even solemnized marriage but the said relationship/marriage was not to the liking of the guardian/family of the victim. For parents to tether their affinity towards a daughter only through (injured) honour, psychogenic pain of separation or sheer dominance of Will is neither altruistic nor a kindered affinity, both of which are necessary foundation to a family. Parents must take into account that their children may make choices which are individual to them; and just as life does not tarry with yesterday, certain consequential life events cannot be reversed. It must be also considered what William Shakespeare asseverated, in the play “A Midsummer Night’s Dream”:

“Love looks not with the eyes, but with the mind; And therefore is wing’d Cupid painted blind.....”,



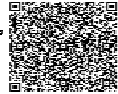
If a daughter has followed her mind to enter into a matrimony that a father disapproves of, thinks of it as being an outcome of being blinded by sheer love or even feels wounded by the manner of it; love for the daughter, kinship for progeny and consideration for salubrity of familial relationship, at the very least, far outweigh belligerence and phyrrie victory of having prolonged antagonism and actions arising thereof towards daughter and her matrimony.

8.1 *The Hon'ble Supreme Court in case of **Mafat Lal** (supra) has enunciated that, in such like case, the offence of kidnapping is not made out and no useful purpose would be served by sending the accused to trial. Further, the Hon'ble Delhi High Court in the case of **Arif Khan** (supra) has considered the factum of the accused and the victim having been married and happily raising their family to be sufficient cause(s) to quash such like FIR (as also proceedings arising therefrom) in the interest of justice.*

8.2 *There is yet another aspect of the matter viz. whether the victim had left the lawful guardianship on her own accord. The Hon'ble Supreme Court in the case of **S. Varadarajan** (supra) has enunciated that, if the facts of a case reflect that the victim had left the lawful guardianship on her own accord, then the accused cannot be said to have taken her out of lawful guardianship and hence the offence of kidnapping, as stipulated in Section 361 of IPC 1860, would not be made out. Such factual aspect can be well gathered from the statement/stand of the victim in question.*

8.3 *This Court in the case of **Talima** (supra) has delved into the nature, scope and ambit of powers of the High Court under Section 482 of Cr.P.C. of 1973 to hold that inherent powers of a High Court are powers which are incidental replete powers, which if did not so exist, the High Court would be obliged to sit still and helpless, see process of law and Courts being abused for the purpose of injustice. There is no gainsaying that it is unequivocal that the inherent powers of the High Court; statutorily recognized by way of Section 482 of Cr.P.C., 1973; are unbridled, unfettered and plenary powers to be exercised for the cause of justice. The High Court is also, well within its jurisdiction, to read between the lines of the case set-up by the complainant/prosecution as also look into and consider all relevant attending circumstances.*

8.4 *For a couple, who have been wedded happily for long and have children; it can be embarrassing, unsettling and even disconcerting to find being subjected to unabated withering over their matrimony.*



“A marriage is a matter of more worth, than to be dealt in by attorneyship”, as William Shakespeare entreated in the play titled Henry VI.

For a parental trifling with conjugal relationship; to the extent of bringing forth to face trial, the accused (husband) alongwith purported victim (daughter of complainant) as also their children, over questioning the raison d’etre of the wedlock, is seemingly a leaf out of Commedia Dell’Arte. The sheer distress caused to the young couple and their children on this account is unfathomable. A father’s rancor cannot be permitted to remain extant ad infinitum ad nauseam. To have the accused (now husband to the victim as also now father to the children born from wedlock), the purported victim (daughter to the complainant, now wife to the accused and now mother to the children born from wedlock) as also children; brought forth to Court, repeatedly, to question and scrutinize the wedlock, of which the said children are born of, would be outrightly farcical & patently ludicrous.

8.5 *There is yet another pertinent aspect of the matter.*

A marriage is an admittance into family life which becomes a basic unit of community and society. When children are born to this covenant, the marriage does not remain an entity and ensconced between two people but it pivots into a family wherein children’s presence kindles a collective obligation for the kinsfolk and even the wider Society. Hence, to trifle with a family by way of having the sanctity of matrimony questioned, is egregious. It would tantamount to injustice, especially to the children, if the accused and his wife (purported victim) are left to such an inveterate belligerence.

8.6 *Ergo, in the cases of nature as the one in hand is; it would not serve the interest of justice nay substantial justice, if the High Court were to decline to exercise its inherent plenary powers under Section 482 of Cr.P.C., 1973 to quash the FIR as also all proceedings emanating therefrom to secure the indefatigable cause of justice. This Court must hasten to add a word of caution herein viz. this course of action ought to be adopted with careful consideration of entirety of facts and circumstances of the particular case in hand for no such principle/course of universal application can possibly be laid down.*

8.7 *As a result of the above rumination, the following postulates emerge:*

(i) *Where the impugned FIR pertains to allegation of offences under Sections 363-A/366 of IPC& it emerges that the accused and the victim have married each other and are living happily, the High Court ought to consider, with a high degree of latitude, such plea for quashing such an FIR (as also*



proceedings arising therefrom). Such plea would be fortified in case child has been born from the wedlock.

(ii) The factum of the victim being minor at the time of the alleged offence shall not ipso facto call for rejection of such a plea on this score itself. Even in such like cases, the High Court is well within its jurisdiction to evaluate the entirety of facts including the factum of the victim having attained the age of majority and still staying in the matrimony, the said couple having been blessed with child etc.

(iii) There is no gainsaying that above postulates are not to be universally/sweepingly applied, for every case has its unique facts/circumstances.”

6. The impugned FIR was got registered by respondent No.3 on 02.06.2020 primarily alleging that his daughter was enticed away by the accused. As per the undeniable factual position; the petitioner-accused got married with the victim on 01.10.2020 whereinafter they were granted protection also by this Court vide CRWP-8176-2020. The petitioner Nos. 2 and 3 were granted the concession of pre-arrest bail by the Court of Additional Sessions Judge, Sangrur on 15.07.2020 whereas the petitioner No.1 was granted the concession of pre-arrest bail by this Court vide order dated 13.08.2020; the victim had attained the age of majority at the time of marriage & had solemnized marriage on her own volition. The purported victim-respondent No.2 has wholeheartedly supported the case of the petitioners-accused whereas the complainant/father of victim (respondent No.3) has chosen not to contest the present petition, reasons whereof are not difficult to comprehend. No fruitful purpose would be served by relegating the matter for trial especially in view of the statement of the victim made under Section 161 of Cr.P.C., of 1973 on 30.05.2020 before the Police wherein the victim has categorically stated that she had left the house of her



father on her own accord and joined the company of petitioner No.1 of her own free will as also in view of the statement of the victim made under Section 164 of Cr.P.C.,1973 wherein the victim has categorically stated that petitioner No.1 neither used any force nor developed physical relations with her rather she has levelled allegations against her parents. It is conceded position that victim was major at the time of her marriage with the petitioner-accused and she is living happily with the petitioner-accused & the impugned FIR was got registered by her father as the said relationship/marriage was not to his liking. Therefore, keeping in view the totality of the facts and circumstances of the case in hand, this Court finds it a fit case for exercise of its inherent plenary jurisdiction to quash the impugned FIR as also all proceedings emanating therefrom.

Decision

7. Accordingly, the FIR bearing No.65 dated 02.06.2020 (impugned FIR) registered under Sections 363/366-A/120-B of Indian Penal Code, 1860 at Police Station City-II, Malerkotla, District Sangrur, Punjab and all consequential proceedings emanating therefrom are quashed.
8. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

June 07, 2024
Ajay

Whether speaking/reasoned:	Yes
Whether reportable:	Yes