

CRM-M-43072-2021
Date of decision: 29.11.2024

...PETITIONER

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

Present: Mr. Gautam Diwan, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.0108 dated 17.07.2020 registered under Sections 363, 366-A IPC at Police Station Dayalpura, District Bathinda (Annexure P-1) and all the subsequent proceedings arising therefrom qua the petitioner.

2. On 10.09.2024, the following order was passed :

“Present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.0108 dated 17.07.2020 registered under Sections 363, 366-A IPC at Police Station Dayalpura, District Bathinda (Annexure P-1) and all the subsequent proceedings arising therefrom qua the petitioner.

Learned counsel for the petitioner inter alia contends that daughter of respondent No.2 has performed marriage with the petitioner and she has got her statement recorded under Section 164 Cr.P.C. to the effect that she has not been enticed away by the petitioner and she has gone with him on her own accord and now, she has attained the age of majority and the petitioner and daughter of respondent No.2 are cohabiting together as husband and wife as discernible from the affidavit of daughter of respondent No.2 (Annexure P-3). Moreover, respondent No.2 is only informant and the case of the petitioner is squarely covered by the ratio of



law laid down in K. Dhandapani v. The State 2022(2) R.C.R.(Criminal) 987 and Devendranath v. State of U.T. Chandigarh and Others bearing No.CRM-M-23281-2023.

Moreover, a Full Bench of Delhi High Court in 'Court on its Own Motion (Lajja Devi) Vs. State' 2012 (4) CCR 72, has categorically held that in case, the prosecutrix/victim 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 Sections 363 or 376 of IPC. It has been further held that the FIR (supra) can be quashed if after attaining the age of majority, she affirms and reiterates her consent.

Learned State counsel seeks time to file status report after verifying the factum of marriage between the petitioner and daughter of respondent No.2.

At request, adjourned to 29.11.2024."

3. In compliance of the aforesaid order, learned State counsel, on instructions from ASI Kuldeep Singh, submits that the veracity of the marriage between the petitioner and daughter of respondent No.2 has been verified and both of them have performed marriage and have been blessed with a girl child. Learned State counsel further submits that currently the daughter of respondent No.2 is cohabiting with the petitioner as his legally wedded wife and date of birth of the daughter of the prosecutrix (daughter of respondent No.2) is 03.11.2022 and date of birth of the prosecutrix is 16.07.2003. Furthermore, petitioner and daughter of respondent No.2 are major.

4. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that daughter of respondent No.2 has solemnized marriage with the petitioner. 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.

5. Daughter of respondent No.2 has now attained the age of majority and wants to continue with her matrimonial life and she is happily married to the petitioner. If the criminal proceedings against the petitioner allowed to continue, not only will it lead to unnecessary incarceration of the petitioner but also leave daughter of respondent no.2 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.

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

7. Accordingly, the FIR No.0108 dated 17.07.2020 registered under Sections 363, 366-A IPC at Police Station Dayalpura, District Bathinda (Annexure P-1) and all other consequential proceedings arising therefrom, are quashed qua the petitioner.

November 29, 2024
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(HARPREET SINGH BRAR)
JUDGE

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