

CRM-M-40425-2020 (O & M)
Date of decision: 23.04.2024

...PETITIONER

V/S

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Pranshul Dhull, Advocate for the petitioner.

Mr. Rajiv Anand, Addl. P.P., Chandigarh.

HARPREET SINGH BRAR J. (ORAL)

1. The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of FIR No.160 dated 17.10.2020 (Annexure P-1) registered under Sections 363/366 of IPC, 1860 at Police Station Manimajra, District Chandigarh and all other consequential proceedings arising therefrom.

FACTUAL MATRIX

2. On 17.10.2020, respondent no.2, who is the mother of victim, stated before the concerned police alleging that her daughter, aged 17 years and 11 months, had gone out of the house to take some articles but she did not come back. They searched her everywhere. Even tried to know about her from the relatives but she was not found and they doubted that one person namely Raman, had enticed away and kidnapped her daughter/victim. On the basis of the allegations levelled by respondent no.2-complainant, the FIR (supra) was registered against the petitioner.

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3. Learned counsel for the petitioner *inter alia* contends that petitioner and daughter of complainant/respondent No.2 were having a love

affair, which was opposed by respondent No.2. Due to her opposition, both of them had eloped. It is further contended that the relationship between the petitioner and daughter of respondent No.2 is consensual in nature, which lacks *mens rea*. Ultimately on 10.11.2020, the petitioner and daughter of respondent No.2 had performed marriage at Shiv Durga Mandir, village Firozpur, Sector 19, Panchkula and reliance in this regard has been placed upon marriage certificate, which is annexed as Annexure P-2. Learned counsel further contends that at the time of marriage, the daughter of respondent No.2 was major and he has relied upon the Aadhar Cards of petitioner and daughter of respondent No.2, which are available on record as Annexures P-3 and P-4. Moreover, the affidavit dated 23.11.2020 of daughter of respondent No.2 is also available on record as Annexure P-5, in which she has stated on oath that she has solemnized marriage with the petitioner with her own consent and without any pressure. Thereafter, the petitioner and his wife had approached this Court by filing a petition bearing **CRWP No.9471 of 2020** titled as **‘Anjali and another vs. State of Haryana and others’** and vide order dated 16.11.2020, this Court directed the authorities concerned to protect the life and liberty of the petitioners(Annexure P-6). Learned counsel for the petitioner further submits that since petitioner and daughter of respondent no.2 have solemnized their marriage with free will and are peacefully leading their matrimonial life together, the offences under Sections 363 and 366-A IPC cannot be made out and jurisdictional police authorities, without verifying the veracity of the allegations, registered the FIR (supra). Therefore, continuation of proceedings in FIR (supra) would be an 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	
2.	Ananda D.V. V. State and others 2021(OLR) 1074	Hon’ble Supreme Court
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	
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 Crl.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 the respondent No.2.
5. Per contra, learned Addl. P.P., U.T. Chandigarh, on instructions from Inspector Akhtar Khan, submits that the FIR (supra) was registered after a complaint made by respondent No.2, however, he could not controvert the fact that the petitioner and daughter of respondent No.2 have performed marriage with each other.

ANALYSIS & OBSERVATION

6. Having heard the learned counsel for the petitioner and after perusing the record with his able assistance, it transpires that daughter of respondent No.2 solemnised marriage with petitioner on 10.11.2020. 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 Sections 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. Daughter of respondent no.2 has now attained the age of majority and wants to continue with her matrimonial life and has tendered an affidavit dated 23.11.2020 (Annexure P-5) wherein 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 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.

CONCLUSION

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

9. Accordingly, the FIR No.160 dated 17.10.2020 (Annexure P-1) registered under Sections 363/366 of IPC, 1860 at Police Station Manimajra, District Chandigarh and all other consequential proceedings arising therefrom, are quashed qua the petitioner.

10. Pending application(s), if any, also stand(s) disposed of.

April 23, 2024
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(HARPREET SINGH BRAR)
JUDGE

- (i)

Whether speaking/reasoned

Yes/No
- (ii)

Whether reportable

Yes/No