

2024:PHHC:108912



CRM-M-36707-2024

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

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CRM-M-36707-2024

Date of decision: August 21, 2024

MOHAMMED TALIM @ TALIM AND OTHERS

....Petitioners

Versus

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present:- Mr. Azad Khan, Advocate for the petitioners.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J.

1. This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.41 dated 08.03.2024 under Sections 363, 366, 506, 34 of IPC, registered at Police Station Pinangwa, District Nuh (Annexure P-1) and all the subsequent proceedings arising therefrom.

2. The following order was passed on 01.08.2024:

“Present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) for quashing of FIR No.41 dated 08.03.2024 under Sections 363, 366, 506, 34 of IPC, registered at Police Station Pinangwa, District Nuh (Annexure P-1) and all the subsequent proceedings emanating therefrom.

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Learned counsel for the petitioners, inter alia, contends that petitioner No.1 and respondent No.2 fell in love with each other. Respondent No.2 Napisa is Muslim and she solemnized the marriage with petitioner No.1 with her free consent and thereafter, both of them approached this Court by filing CRWP-6825-2024 seeking protection to their lives and liberty and this Court, vide order dated 18.07.2024, disposed of the said petition by issuing direction to the official respondents. Respondent No.2 was produced before jurisdictional Magistrate by the police authorities and her statement under Section 164 Cr.P.C. was recorded, in which she categorically stated that she was never abducted and she left her home voluntarily without any fear and pressure.

Learned counsel for the petitioners further contends that the proximity of the age between petitioner No.1 and respondent No.2 must be given due consideration and a compassionate view be taken considering their young age and nature of circumstances. Reliance in this regard can be placed upon the following:

Sr.No.	Case Title	Court
1.	K. Dhandapani Vs. The State 2022 (2) RCR (Criminal) 987	Hon’ble Supreme Court
2.	Ananda D.V vs. State and others 2021 (OLR) 1074	
3.	Kapil Gupta vs. State of NCT of Delhi and others 2022 (4) RCR (Criminal) 497	
4.	Jatin Aggarwal Vs. State of Telangana and others 2022 (2) RCR (Criminal) 603	
5.	Ranjeet Kumar Vs. State of H.P and others MANU/HP/2314/2013	Himachal Pradesh High Court (DB)
6.	Narinder Kaur @ Ninder Kaur and others Vs. State of Punjab and others CRM-M-41204-2020	Punjab and Haryana High Court
7.	Ashik Ramjan Ansari Vs. The State of Maharashtra and others 2023 CriLJ 3633	Bombay High Court
8.	Sabari Vs. Inspector of Police, Belukurichi Police Station and others, 2019 (3) RCR (Criminal) 452	Madras High Court

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9.	<i>Jitender Kumar Sharma Vs. State and Others 2010 (4) RCR (Criminal) 20</i>	<i>Delhi High Court (DB)</i>
10.	<i>Skhemborlang Suting and others Vs. State of Meghalaya and others MANU/MG/0054/2022</i>	<i>Meghalaya High Court</i>
11	<i>Tarun Vaishnav Vs. State of Rajasthan and others MANU/RH/16181/2022</i>	<i>Rajasthan High Court</i>
12	<i>Kundan and another vs. State of others Crl. M.C. 27/2022</i>	<i>Delhi High Court</i>
13.	<i>Devendranath Vs. State of U.T Chandigarh and others CRM-M-23281-2023</i>	<i>Punjab and Haryana High Court</i>

Notice of motion.

On asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab accepts notice on behalf of respondent No.1-State and Mr. Afjal Hussain, Advocate appears on behalf of respondent No.3 and files Memorandum of Appearance, which is taken on record and he undertakes to file Vakalatnama in the Registry before the next date of hearing. He opposes the prayer made by the petitioners on the ground that at the time of marriage, respondent No.2 Napisa was minor and her marriage with petitioner No.1 cannot be considered as legal and as such, petitioner No.1 is liable for the offence as committed by enticing away minor daughter of respondent No.3.

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that petitioner No.1 and respondent No.2 performed marriage with each other. Even if the argument raised on behalf of respondent No.3 with regard to his daughter being minor at the time of marriage is considered, at the most, marriage between the parties could be declared void at the instance of minor spouse and respondent No.3 is only an informant and respondent No.2/victim-prosecutrix herself has performed marriage with petitioner No.1.

Learned State counsel seeks time to verify the factum of marriage between petitioner No.1 and respondent No.2.

Adjourned to 21.08.2024.

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In the meantime, no coercive action be taken against the petitioners.

3. In compliance of the aforesaid order, a status report by way of an affidavit of Pardeep Khatri, HPS, DSP of Polic Punhna on behalf of the respondent-State has been filed. Learned State counsel refers to the status report and submits that the prosecutrix is major and she has made her statement before the jurisdictional magistrate under Section 164 Cr.P.C and she has performed marriage with the petitioner and both are cohabitating together as husband and wife. Moreover, the jurisdictional police authorities have prepared the cancellation report and the same has been submitted before the jurisdictional Court.

4. In view of the fact that the prosecutrix is major and both of them i.e the petitioner and the prosecutrix have performed marriage, the present petition is allowed and the FIR No.41 dated 08.03.2024 under Sections 363, 366, 506 , 34 of IPC, registered at Police Station Pinangwa, District Nuh (Annexure P-1) and all the subsequent proceedings arising out of the same are quashed qua the petitioners.

(HARPREET SINGH BRAR)
JUDGE

August 21, 2024
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No