



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-48439-2021

Date of decision: 31.07.2024

Harvinder Singh and others

....Petitioners

V/s

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Manoj K. Sharma, Advocate for the petitioners.
Mr. Adhiraj Singh Thind, AAG Punjab.
Mr. Ritesh Sharma, Advocate for respondent No.2.
Mr. Sunny Saggar, Advocate for respondent No.3.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter to be referred as "Section 482"), by the petitioners for quashing of FIR No.138 dated 09.11.2021 (impugned FIR) registered under Sections 363, 366-A of Indian Penal Code, 1860 at Police Station Jhabal, District Tarn Taran, 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 Paramjit Kaur, aged about 40 years, mobile no. 98784-75908, w/o Ravinder Singh, r/o village Manakpura, police station Sarai Amanat Khan, now presently residing at Morh Beed Baba Budha Sahib Ji, village Thatha, P.S. Jhabal, stated that I am residing at above mention address and I do the domestic work. My husband Ravinder Singh is suffering with illness.. I have two children, my elder daughter is Taranpreet Kaur and my younger son



is Gurpartap Singh. My daughter Taranpreet Kaur date of birth is 05.09.2004. She has passed the Matric from Goodwill Public School Wadali (Shareta Amritsar). Now she is residing in the house. Harvinder Singh son of Tarsem Singh r/o village Chabal, colony Pambar was harassed to my daughter from last the two years and he has offered to my daughter for performing the marriage. Regarding this my daughter Taranpreet Kaur was disclosed to me and my husband. Upon that we had given the complaint to parents of Harvinder Singh. But he has not stopped his act. Yesterday on 08.11.2021 time about 9.30 p.m. (night) my daughter Taranpreet Kaur came out from the house for talking with relatives, then I came behind her and in the meantime one read colour car i-10 stopped in front of my house, but I could not read the number of the car. In which Harvinder Singh son of Tarsem Singh r/o village Chabal and his sister Happy were sitting and her husband Balbir Singh @Balla son of Mohan Singh resident of village Bhojranwala was driving the car and then 2/3 unknown persons also came and on my seeing they have forcibly taken away my daughter Taranpreet Kaur in the car for marriage. I have raised the noise loudly, then all the persons have run away in car at the side of link road Chabal Khurd. Then I have informed on telephone about this incident to my last village Manakpura, then Avtar Singh member Panchayat son of Swaran Singh r/o village Manakpura reached at the spot. We have tried to search and trace to them near about. But they have not traced. Harvinder Singh have forcibly taken away my daughter Taranpreet Kaur in the car for marriage alongwith his brother-in-law Balbir Singh @ Balla and his sister Happy. Legal action be taken against them. Sd/- Paramjit Kaur”

The complainant/informant in the impugned FIR is one Paramjit Kaur, who has been impleaded as respondent No.3 herein and the victim is her daughter namely Taranpreet Kaur, who has been impleaded as respondent No.2 (herein).

(ii) It is pleaded in the petition that marriage of petitioner No.1 was solemnized with respondent No.2 on 08.11.2021. It has been further pleaded that after solemnization of marriage, the petitioner and the victim namely Taranpreet Kaur filed a petition seeking protection of their life and liberty



before this Court vide CRWP-10709-2021 which was disposed of vide order dated 12.11.2021; relevant whereof reads as under:

“The petitioners have approached this Court seeking issuance of a direction to official respondents to protect their lives and liberty as they apprehend threat to the same at the hands of private respondent having married against the wishes of their families.

Without commenting as regards the veracity of the averments made in the petition and also as regards the validity of alleged marriage of the petitioners, the petition is disposed of with a direction to respondent No.2 i.e. Senior Superintendent of Police, District Tarn Taran, to look into the matter and to dispose of the representation dated 8.11.2021 (Annexure P-5) in accordance with law. In case, it is found that there is a genuine threat to the lives and liberty of the petitioners, then necessary steps warranted under law be taken thereupon at the earliest so as to ensure that no harm is caused to the petitioners.

A copy of this order alongwith copy of the representation dated 8.11.2021 be sent to Senior Superintendent of Police, District Tarn Taran (respondent No.2), so as to enable him to do the needful expeditiously.

It is, however, clarified that the aforesaid order shall not be taken to be any expression as regards the validity of marriage of the petitioners and shall not confer any immunity upon the petitioners, in case it is found that they have committed any wrong.”

Indisputably, the petitioner No.1 got married with the victim (respondent No.2 herein) and had been living happily together as husband and wife. It has been further pleaded that out of this wedlock, one child has been born. It is worthwhile to note that during the course of proceedings in the present petition, the victim has filed an affidavit dated 09.11.2021 (Annexure P-6) and the same reads as under:

“I Taranpreet Kaur aged about 18 years, w/o Harvinder Singh d/o Ravinder Singh r/o village Chabhal Tehsil and District Tarn Taran. I the above named deponent do hereby solemnly affirm and declare as under:-

1. That I Taranpreet Kaur Wife of Harvinder Singh have married with my free will and consent with Harvinder Singh, our marriage is love marriage. I and my husband are major and we have



performed the marriage at Mata Mansa Devi Mandir Panchkula (Haryana) on 08.11.2021.

2. That I have solemnized the marriage against the wishes of my parents, therefore my mother has got registered the false FIR no. 0138, Dated 09.11.2021, PS Jhabal, District Tarn Taran, Under Section 363, 366-A IPC against my husband and his family members.

3. That my parents were against this marriage therefore I and my husband have approached the Hon'ble Punjab and Haryana High Court for getting protection and Hon'ble Punjab and Haryana High Court has rightly granted to the protection to me and my husband.

4. That now am happily residing with my husband, therefore I have no any objection that if the above mentioned FIR is quashed/cancelled.”

(iii) The petitioner Nos.2 and 3, are the real sister and brother-in-law of petitioner No.1.

(iv) 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 08.11.2021 and 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 12.03.2022, relevant whereof reads as under:-

“7. That, it is respectfully submitted that the documents submitted by the petitioner No.1 namely Harvinder Singh and respondent No.2 namely Tarunpreet Kaur are not genuine as per the verification done by the



undersigned and whereas the documents submitted by respondent No.3 namely Paramjit Kaur are genuine. The inquiry report conducted by the undersigned is annexed herewith as Annexure R-1/T for the kind perusal of this Hon'ble Court.

8. That the present case is at the stage of investigation and after completion of the investigation in the present case, the final report under section 173 (2) of Cr.P.C. will be presented before the learned Court of Illaqa Magistrate, Tarn Taran, District Tarn Taran at the earliest.

9. That the offences committed by the petitioners were not just a crime against an individual, rather a crime against the society at large. The quashing of FIR will leave a wrong impression about the criminal justice system and will encourage further criminal acts, which will endanger the peaceful co-existence and welfare of the society at large.”

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. Learned counsel appearing for respondent No.3 submits that allegations against the petitioners are serious in nature as petitioner No.1 has enticed away the daughter of respondent No.3.

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 09.11.2021 primarily alleging that her daughter was enticed away by the accused. As per the undeniable factual position; the petitioner No.1-accused got married with the victim on 08.11.2021 whereinafter they were granted protection also by this Court vide CRWP-10709-2021. The victim had solemnized marriage on her own volition. The purported victim-respondent No.2 has wholeheartedly supported the case of the petitioners-accused. No fruitful purpose would be served by relegating the matter for trial especially in view of the affidavit sworn in before this Court on 13.11.2021 wherein the victim has categorically stated that she on her own free will and consent had performed the marriage with petitioner No.1 and she has no objection if the instant FIR be quashed/cancelled. It is conceded position that victim is



living happily with the petitioner-accused & the impugned FIR was got registered by her mother as the said relationship/marriage was not to her 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. 138 dated 09.11.2021 (impugned FIR) registered under Sections 363, 366-A of Indian Penal Code, 1860 at Police Station Jhabal, District Tarn Taran, Punjab and all consequential proceedings emanating therefrom are quashed.
8. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

July 31, 2024
Ajay

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