

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

224

CRR-2511-2019(O&M)

Date of order: 10.04.2024

Manvir Singh

.....Petitioner(s)

Vs.

State of Punjab

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Arunjeet Singh Kakkar, Advocate
for the petitioner.

Ms. Aakanksha Gupta, AAG Punjab.

Nidhi Gupta, J.

Challenge in the present petition is to order dated 19.07.2019 passed by learned Sessions Judge, Faridkot whereby charges have been framed against the petitioner under Sections 363, 366-A and 120-B IPC in case FIR No.87 dated 15.04.2019 registered under Sections 363, 366-A and 120-B IPC at Police Station City Faridkot.

2. Learned counsel for the petitioner inter alia submits that FIR in the present case was registered on the basis of statement of paternal aunt/bua of the victim. The petitioner was in a consensual relationship with the victim. It has been alleged in the FIR that on the date of incident i.e. 13.04.2019, the victim was about 17 years of age. However, the victim in her statement under Section 161 Cr.P.C. (Annexure P1), has stated that her date of birth is 07.07.2000. It is submitted that accordingly, on the date of incident, the victim was major.

3. Learned counsel further refers to statement of the victim recorded under Section 164 Cr.P.C. on 17.04.2019 before the learned JMIC, Faridkot (Annexure P2), wherein the victim has stated that *“on 13.04.2019 I myself voluntarily and with my free will has run away from my home with Manbir Singh. I ran away alone from home. Ahead my home at some distance Manbir met me. He has taken me at my asking. I have asked him to take me from my home.”*

4. Learned counsel submits that even the complainant in her statement (Annexure P3), before the Id. JMIC, has stated as under:-

“Stated that this FIR has been registered as to be the real aunt of the girl. Her mother has been died many years before and her parenting has been done from her childhood by me and another brother Suba Singh. She is daughter of my another brother Balbir Singh. We had registered complaint for her missing because she has went away from home. Now on the saying of Navjot we don't want to proceed any legal action against Manbir Singh and are ready to take Navjot at home along with her father Balvir Singh.”

5. Learned counsel submits that from the abovesaid statements it is very clear that no offence as charged is made out against the petitioner.

6. Learned State Counsel very fairly submits that there is no running away from the statements made by the victim and the complainant. It is further informed that out of total 14 witnesses 3 have been examined. It is further informed that the next date of hearing before the learned trial Court is 20.04.2024.

7. No other argument is made on behalf of the petitioner.

8. I have heard learned counsel for the petitioner and perused the case file in detail.

9. The date of incident is 13.04.2019. As the victim went missing, her paternal aunt/bua registered the present FIR on 15.04.2019. On 16.04.2019, the petitioner and the victim were recovered together. In the impugned order, learned Sessions Judge, Faridkot has incorrectly recorded that the victim was minor and aged about 17 years when she was enticed away by the petitioner. However, as evident from the statement of the victim herself under Section 161 Cr.P.C. (Annexure P1), it is clear that neither was the victim 17 years old at the time when she went with the petitioner, nor she had been enticed away by the petitioner.

10. Furthermore, from the undisputed facts as submitted hereinabove by both the parties, it is clear that no offence under Sections 363, 366-A or 120-B IPC is made out against the petitioner. The statements of the victim and the complainant are categorical in that the victim had left her home of her own sweet will.

11. To constitute an offence under Section 363 IPC, mens rea i.e. intention is required on part of the petitioner for kidnapping the victim. In this case, there is no mens rea/intention to kidnap, on part of the petitioner as clearly the victim came of her own free will.

12. Further, to constitute an offence under Section 366-A IPC, it is required that the petitioner should have taken the victim forcefully with an intent to forcefully seduce her for marriage or illicit intercourse. In

the present case, no such allegation has been made against the petitioner.

From the unequivocal statements of the victim as well as the complainant, it is clear that no force has been used with the victim let alone any forceful intercourse.

13. In view of the above, present petition is **allowed** and order dated 19.07.2019 passed by learned Sessions Judge, Faridkot, is set aside.

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

10.04.2024	(Nidhi Gupta)
Sunena	Judge
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No