

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.42296 of 2024
Decided on: 18.10.2024

Raman

...Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.K. Yadav, Advocate
for the petitioner.

Mr. Ashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
153	08.04.2024	Nissing, District Karnal (Haryana)	346 IPC

1. Seeking quashing of above captioned FIR, the accused has come up before this Court under Section 582 BNSS.

2. The facts of the case are taken from the copy of FIR (Annexure P-1) which reads as follows:

“My daughter in law Pooja wife of Niju, yesterday, on 07.04.2024 at 08.00am went to village Gondar from my house but did not reach till now. On inquiry, I came to know that before some days, she stayed at her village Faral, thereafter, she was made to sit in the bus from Pundari for Nissing and thereafter, she got missing. We are not aware of her whereabouts. It is submitted that Pooja be searched. Mb. NO.70155xxxxx, 93501xxxxx. Thereafter, she has both these numbers, it is submitted that her location be searched. She is whitish coloured, round face, slim, 5'5" height aged 29 years, belli button whitish colore wearing Punjabi Jutti.”

3. It would be appropriate to refer to paragraphs 1 to 3 of the preliminary submissions as mentioned in the reply as well as paragraphs 1 to 4 of the reply on merits which reads as follows:

“Preliminary submissions:-

1. That at the very outset, it is submitted that a complaint was moved by Balwan Singh son of Mehar Singh R/o Village Gondar before SHO Police Station Nissing, District Karnal with allegations that he is an agriculturist. He has one son namely Niju. His son Niju got married before 3 years to Pooja Sto Balbir Rana R/o Faral Police Station Pundri, District Kaithal. His daughter-in-law Pooja wife of Niju, yesterday, on

07.04.2024 at 8:00 AM went to village Gondar from his house but did not reach till now. On inquiry, he came to know that before some days, she stayed at her village Faral, thereafter, she was made to sit in the bus from Pundari for Nissing and thereafter, she got missing. They are not aware of her whereabouts It is submitted that Pooja be searched Mobile Nos. of Pooja are 70155xxxxx, 93501xxxxx. It is submitted that her location. be searched. She is wheatish coloured, round face, slim, 5'5" in height aged 29 years. On the basis of this complaint a FIR No. 153 dated 08.04.2024 U/S 346 of IPC was registered in Police Station Nissing, District Karnal against unknown.

2. That after registration of the case, the investigation was carried out by LHC Paramjit Kaur, Police Station Sector Nissing, Karnal, who during the investigation recorded the statement of the complainant and other prosecution witnesses. During the investigation, efforts were made by the Investigating Officer to trace the missing girl but she could not be found. During the investigation, the Investigating Officer had moved an application to the Incharge Cyber Cell, DPO, Karnal to obtain the location of mobile Nos. 70155xxxxx, 93501xxxxx of missing Pooja. From the perusal of call details, Pooja was found to have talked to Raman on his mobile number 79730xxxxx. In this regard, search was made at the residence of Raman S/o Madan Lal, R/o Street No.6, Circular Road, New Badi, District Kapurthala (Punjab) but neither the petitioner nor Pooja were not found at his home. In this regard, notices were sent to Raman on his Whatsapp No. 62846xxxxx to produce the girl before the local Police but no reply has been received so far. Moreover, the investigation is still going on fairly and impartially. It is humbly prayed that the petitioner be directed to produce the missing girl Pooja before the local police so that the investigation can be concluded.

3. That since investigation of the present case is still going on, this petition being premature may kindly be dismissed.

Reply on Merits:-

1. That the contents of Para No. 1 of the petition are admitted to the extent that the petitioner is a resident of the State of Punjab and being a Citizen of India. Rest of the contents are wrong and denied. It is submitted that case FIR No. 153 dated 08.04.2024 U/S 346 of IPC was registered in Police Station Nissing, District Karnal against an unknown. The petitioner is not by named in the FIR. Thus the present petition deserves to be dismissed qua the answering respondent.

2. That the contents of Para No. 2 of the petition are wrong and hence denied. It is submitted that during the investigation, the Investigating Officer had moved an application to the Incharge Cyber Cell, DPO, Karnal to obtain the location of mobile Nos. 70155xxxxx, 93501xxxxx of missing Pooja. From the perusal of call detail, Pooja was found to have talked to Raman on his mobile number 79730xxxxx. In this regard, the search was made at the residence of Raman So Madan Lal Rio Street No. 6, Circular Road, New Badi, District Kapurthala (Punjab) but the petitioner was not found at home. In this regard, notice were sent to Raman on his Whatsapp No. 62846xxxxx to produce the girl before the local Police but no reply has been received so far. Moreover, the investigation is still going on in a fair and impartial manner. Rest of the contents regarding Annexure P-II are wrong and denied for want of knowledge.

3. That the contents of Para No. 3 of the petition are denied for want of knowledge.

4. That the contents of Para No. 4 of the petitioner are wrong and hence denied It is wrong to say by the petitioner that the police are harassing the petitioner and his family members. Further, as per investigation and CDR detail of mobile No.70155xxxxx of Pooja, it revealed that Pooja is in contact with the petitioner and

Raman/ petitioner is deliberately not presenting Pooja to the local police. Thus the present petition deserves to be dismissed and the petitioner may be directed to produce Pooja before the local Police so that further investigation in the present case can be concluded."

4. I have heard counsel for the parties and have gone through the record and its analysis would lead to the following outcome.

5. The investigation thus points that Pooja is deliberately avoiding to return to her home and as such, section 346 IPC makes it an offence wherein the illegal confinement indicates an intention of the accused in such confinement. Merely because the petitioner did not obey the directions of the investigator and could not produce the girl namely pooja, despite having talked to her could not put him to offence in this regard.

6. The ingredients of section 346 IPC are wrongful confinement of a person in secret from anyone with an intention which indicates that confinement to any person interested in the said person. The said person Pooja in this case is an adult and the reply does not point to any coercion, duress on behalf of the petitioner in her concealment. Given above, the registration of the FIR is an abuse of process of law and it cannot be permitted to continue.

7. Consequently, the present petition is allowed and the FIR captioned above, is quashed and set aside. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

18.10.2024

Sonia Puri

Whether speaking/reasoned: Yes

Whether reportable: No.