



CRM-M-54000-2019

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-54000-2019
Decided on: 30.07.2024

SUKHDEV SINGH @ BILLI

... Petitioners

Vs.

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Iqbal S. Mann, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of FIR No.68 dated 12.09.2019 registered under Sections 363 and 366A of IPC, 1860 at Police Station Bariwala, District Sri Muktsar Sahib (Annexure P-1) and all other consequential proceedings arising therefrom.

2. On 12.09.2019 respondent no.3, who is the father of respondent no.2-victim, stated before the concerned police alleging that his daughter who was a minor, had gone missing on 11.09.2019 and he and his family members were unable to find her. Subsequently, they came to know that the petitioner- accused had taken away the victim after alluring her. On the basis of the allegations levelled by respondent no.3-complainant, the FIR (supra) was registered against the petitioner.

3. Learned counsel for the petitioner inter alia contends that the date of birth of respondent no.2 is 21.10.2001 and as soon as she attained

the age of majority, she solemnized her marriage with the petitioner on 22.10.2019 and their Marriage Certificate has been appended as Annexure P-3. He further submits that the aforesaid couple has also been blessed with a child. As they have solemnized their marriage out of free will and are peacefully leading their matrimonial life together, continuation of proceedings in FIR (supra) would be an abuse of process of law. Learned counsel places reliance on the following judgements:

Sr. No.	Case Title	Court
	K. Dhandapani v. The State 2022(2) R.C.R.(Criminal) 987	Hon’ble Supreme Court
2.	Ananda D.V. V. State and others 2021(OLR) 1074	
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	Himachal Pradesh High Court (DB)
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 CrI.M.C. 27/2022	Delhi High Court
13.	Devendranath v. State of U.T. Chandigarh	Punjab and Haryana

	and Others CRM-M-23281-2023	High Court
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4. The notice has been duly served on respondent no.2, however, there is no representation on his behalf.

5. Learned State counsel, on instructions received from ASI Tejinder Singh, submits that petitioner no.1 and respondent no.3 are peacefully cohabitating together as husband and wife. He further submits that the statement of the victim-respondent no.2 has been recorded under Section 164 Cr.P.C. in which has not supported the prosecution case. Upon further instructions, he submits that final report under Section 173 Cr.P.C. has been presented and consequently, charges have been framed in the present case.

6. Having heard the learned counsel for the petitioner and after perusing the record with his able assistance, it transpires that respondent no. 2 has solemnized marriage with the petitioner on 22.10.2019. 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 Section 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. Respondent no. 2 has now attained the age of majority and wants to continue with her matrimonial life as recorded in her statement made under Section 164 Cr.P.C. 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 are allowed to continue, not only will it lead to unnecessary incarceration of the petitioner but also leave respondent no.2 and her child 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 proceedings in the present case would be nothing but waste of valuable judicial time, especially, when the Courts are already over-burdened.

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

9. Accordingly, the FIR No.68 dated 12.09.2019 registered under Sections 363 and 366A of IPC, 1860 at Police Station Bariwala, District Sri Muktsar Sahib (Annexure P-1) and all other consequential proceedings arising therefrom, are quashed qua the petitioner.

30.07.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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