



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

CRM-M-61769-2023
Date of decision: 01.08.2024

Gagan SinghPetitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kapil Khanna, Advocate
for the petitioners.

Mr. Rishabh Singla, AAG, Punjab
(On instructions from ASI Surjit Singh)

HARPREET SINGH BRAR, J.

1. The petitioners through instant petition under Section 482 Cr.P.C. are seeking quashing of FIR No 31 dated 27.02.2022 (Annexure P-1) registered under Sections 363 and 366-A of IPC at Police Station Ranjit Avenue, Amritsar and all other consequential proceedings arising therefrom.

2. Briefly, the facts are that on 25.02.2022, respondent No.3, daughter of respondent No.2/complainant, who was 17 years old at the time, went to her school i.e. Senior Secondary School, Karampura, but did not return. On enquiry, it was found out that the petitioner had enticed away respondent No.3.

3. Learned counsel for the petitioner contends that respondent no.3, purported to be the victim in the FIR (supra), has deposed by way of a sworn affidavit (Annexure P-3) that she ran away from home of her own accord, without any inducements. She also stated that she has solemnized marriage with the petitioner on 01.03.2022 against the wishes of respondent No.2, her father, who falsely got the FIR(supra) registered. He further submits that soon

after the marriage, the petitioner and respondent no.3 approached this Court seeking protection of their life and liberty, which was disposed of vide order dated 08.03.2022. Learned counsel for the petitioner further submits that the petitioner and respondent no.3 have solemnized marriage of their own free will and also have a child together. They are peacefully leading their matrimonial life together and as such, continuation of proceedings in FIR (supra) would be an abuse of process of law. Learned counsel places reliance on the following:

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 and Others CRM-M-23281-2023	Punjab and Haryana High Court

4. Learned State counsel has filed status report in the Court which is taken on record and on instructions received from ASI Surjit Singh, submits



that the petitioner and respondent no.3 are peacefully cohabiting together as husband and wife and a female child was born to them on 04.04.2024(Annexure P-5). However, the investigating officer visited Mansa Devi Temple, Panchkula to verify the factum of solemnisation of their marriage, but none of the priests confirmed performance of marriage ceremony between them. The statements of the priests have been annexed as Annexure R-4/T to R-9/T.

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that respondent no. 3 solemnized marriage with the petitioner 01.03.2022, against the wishes of her family. However, the couple has been happily cohabiting as husband and wife and have been blessed with a daughter on 04.04.2024 (Annexure P-5). The FIR(supra) states that respondent No.3 was 17 years old at the time of the alleged incident, however, 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 vs. Rohan Verma 2022(2) R.C.R. (Civil) 349.***

6. Further, a Full Bench of Delhi High Court in ***Court on its Own Motion(Lajja Devi) vs. 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. Respondent No.3 has now attained the age of majority and tendered a sworn affidavit dated 04.12.2023 (Annexure P-3) denouncing the narrative put forwards by FIR(supra) and affirming the factum of marriage. She has categorically deposed that she left with the petitioner of her own accord, without any inducements and is happily residing with him in her matrimonial home. If the criminal proceedings against the petitioner allowed to continue, not only will it lead to unnecessary incarceration of the petitioner but also leave respondent no.3 and their newborn 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 present proceedings in the present case would be nothing but wastage of valuable judicial time, especially, when the Courts are already over-burdened.

7. In view of the discussion above, the present is allowed and the FIR No 31 dated 27.02.2022 (Annexure P-1) registered under Sections 363 and 366-A of IPC at Police Station Ranjit Avenue, Amritsar and all other consequential proceedings arising therefrom, are hereby quashed qua the petitioner.

(HARPREET SINGH BRAR)
JUDGE

01.08.2024
Neha

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