



274

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

CRM-M-37761-2024 (O&M)

Date of Decision:- 01.04.2025

KANHAYA SINGH @ KANHAYA RAM

....Petitioner

Vs.

STATE OF PUNJAB AND ORS

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Sarvesh Kumar Gupta, Advocate and Mr. Rajesh K.
Dadwal, Advocate for the petitioner.
Mr. Baljinder Singh, DAG, Punjab.
Mr. Kuljit Singh, Advocate for respondent Nos.2 and 3.

AMARJOT BHATTI, J. (Oral)

1. Petitioner Kanhaya Singh @ Kanhaya Ram filed petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of FIR No.211 dated 19.06.2018 under Sections 363, 366-A IPC (Sections 376 IPC and 4 POCSO Act added later-on) registered at Police Station Sahnewal, District Ludhiana (Annexure P-1) with all subsequent proceedings on the basis of compromise dated 29.07.2024 (Annexure P-5).
2. As per the facts of the case, FIR No.211 dated 19.06.2018 (*supra*) was registered on the statement of Hirdaya Nand Tiwari who gave his statement that his daughter/victim aged 17 years was residing in the house. She had completed her 12th class from Indian School, Giaspura.



Kanhaya Singh @ Kanhaya Ram who was residing in nearby colony used to come outside his house and was keeping bad eye on her daughter. He stopped him from doing so but he did not mend his behaviour. On 16.06.2018 at about 9.30 am, he enticed away his daughter to solemnize marriage. He searched for his daughter with the help of his relatives but could not find her. Ultimately, matter was reported to the police.

3. Learned counsel for petitioner argued that petitioner was having love affair with the daughter of complainant. Complainant and his relatives were not happy with their relationship. Respondent No.2 father wanted to perform marriage of respondent No.3 against her wishes and for this reason she left the parental house on 16.06.2018. Petitioner and respondent No.3 performed marriage on 06.01.2020 according to Hindu Rites and it was inter-caste marriage. Marriage certificate is Annexure P-2. He has also placed on record one photograph (Annexure P-7) where petitioner is putting *sindoor*. Respondent No.3 along with present petitioner filed Criminal Writ Petition No.243 of 2020 seeking protection of their life and liberty which was decided on 09.01.2020 (Annexure P-3). Respondent No.3 was more than 18 years of age. Copy of her Aadhar Card is Annexure P-4. In-fact, petitioner has not committed any offence falling under Sections 363, 366-A and 376 IPC and Section 4 of POCSO Act. Now matter has been compromised between the parties through Panchayati compromise/agreement dated 29.07.2024 (Annexure P-5). Therefore, no useful purpose would be served with the continuation of proceedings before the trial Court. It is submitted that aforesaid FIR No.211 dated 19.06.2018 (Annexure P-1) and subsequent proceedings arisen therefrom may be quashed on the basis



of compromise dated 29.07.2024 (Annexure P-5).

4. Learned counsel for respondent Nos.2 and 3 confirmed compromise arrived at with the petitioner and did not oppose the present petition.

5. Learned counsel representing State filed status report taking the stand that after the registration of FIR, the Investigating Agency made persistent efforts to locate and recover the victim i.e. the respondent No.3. Petitioner evaded arrest. Consequently, he was declared proclaimed person on 19.12.2019. Challan was presented against proclaimed person under Sections 363 and 366A IPC. The victim was located and recovered by the Investigating Agency on 22.03.2020 and she was handed over to her family members. She was medically examined on 01.04.2020 and her statement was also recorded under Section 164 Cr.P.C on 10.04.2020 where she alleged that on 16.08.2018 petitioner forcibly administered chloroform to her, as a result she became unconscious and she was taken away from her house. She stated about sexual assault by taking her to Baddi, Himachal Pradesh. CFSL report is also received. Thereafter, offence under Section 376 IPC and Section 4 of POCSO Act were added. Supplementary challan was submitted before learned Special Court, Ludhiana on 07.02.2022. At present case is fixed for defence evidence before trial Court. Learned counsel representing State opposed the present petition with a prayer that same may kindly be dismissed.

6. I have considered the arguments and have gone through the record carefully. Alleged occurrence took place on 16.06.2018 when the victim/respondent No.3 was enticed away by the petitioner with an



assurance of marriage. It is the case of prosecution that at the time of alleged occurrence the victim/respondent No.3 was 17 years of age. In this regard, petitioner has placed on record copy of one Aadhar Card (Annexure P-4) showing her date of birth as 02.07.2001. Therefore, at the time of alleged occurrence, she was few days less than 17 years of age, thus minor. As per the petition, marriage was solemnized on 16.01.2020. However, marriage certificate dated 06.01.2024 (Annexure P-2) shows that marriage was performed on 06.01.2024 by pandit Vinod *Shastri*. Petitioner along with respondent No.3 had approached the High Court by way of CRWP-243-2020 which was disposed of vide order dated 19.01.2020 (Annexure P-3) directing Commissioner of Police, Ludhiana to dispose of the representation and take necessary steps as may be warranted under the facts and circumstances of the case and it was specifically mentioned that order shall not be construed to be an expression as regards validity of alleged marriage of the parties. Panchayati compromise allegedly took place on 29.07.2024 (Annexure P-5). Earlier, petitioner was declared proclaimed person on 19.12.2019. Respondent No.3 was recovered on 22.03.2020 and her statement was recorded under Section 164 Cr.P.C. levelling allegations against petitioner/accused. It is pointed out that trial is at fag end i.e fixed for defence evidence.

7. Considering the facts of the case, age of the victim, I do not find it appropriate to quash FIR No.211 dated 19.06.2018 under Sections 363, 366-A IPC (Sections 376 IPC and 4 POCSO Act added later-on) registered at Police Station Sahnewal, District Ludhiana (Annexure P-1) with all subsequent proceedings on the basis of compromise dated 29.07.2024 and



petition is accordingly declined. However, present petitioner is at liberty to raise all defences available to him before the trial Court.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)

JUDGE

01.04.2025

snd

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