

(2009) 05 P&H CK 0049

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous M No. 3223 of 2009

Goldi @ Kulvinder

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 28-05-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 363

Citation : (2010) 1 RCR(Criminal) 371

Hon'ble Judges : Sabina, J

Bench : Single Bench

Advocate : S.S. Dinarpur, for the Appellant; Sidharath Sarup, Assistant Advocate General, Haryana, For the Respondent No. 2 Mr. Krishan Singh, Advocate For the Respondent No. 3 Mr. Rajesh Sheoran, for the Respondent

Final Decision : Allowed

Judgement

Mrs. Sabina, J.—Petitioner has filed this petition u/s 482 of the Code of Criminal Procedure seeking quashing of FIR No. 61 dated 3.6.2006 under Sections 363, 366 of the Indian Penal Code ('IPC' for short) registered at Police Station Sadar, Jagadhri, District Yamuna Nagar (Annexure P3) and all the subsequent proceedings arising therefrom.

2. The prosecution story in brief as per the FIR (Annexure P3) is as under :-

It is submitted that: 1) I am resident of village Rulla Kheri, Tehsil Jagadhri, District Yamuna Nagar and I am a poor labourer 2) That the applicant has 2 children and about 12 years earlier, the applicant had adopted Anju daughter of his own sister. Anju is residing with the applicant and the applicant is looking after and raising her. 3) That Anju who is adopted daughter of the applicant is minor as she is about 13-14 years of her age. Yesterday on 25.5.2006, in the noon, Anju had gone to answer the call of nature but she has not returned back uptill now. I have thoroughly searched her in my relations as well as in my village but her whereabouts could not be revealed. Now I have come to know

that aforesaid accused is also missing from his house since yesterday. He has taken away my daughter somewhere under some allurement and when I contacted his father in the above regard, he threatened me that I should leave the place otherwise he would eliminate me and he flatly refused to disclose any thing to me. Aforesaid accused has taken away my minor daughter at some unknown place under some inducement. I do not know where my daughter is being kept. Thus, it is humbly submitted that case be registered against the aforesaid accused persons and legal action may please be taken against him. My daughter be returned to me and my life and property be protected.

3. Learned counsel for the petitioner has submitted that, in-fact, petitioner and Anju Bala, daughter of respondent No. 1 had got married. The photographs in this regard is Annexure P4.

4. An affidavit of Anju Bala (Annexure P6) has been filed stating that now she was married to petitioner on 28.1.2007 at Mansa Devi Temple, Sector 4, Panchkula and since then she is residing with her husband at Mani Majra, Chandigarh comfortably and happily and they had been blessed with a son who is now about one year and three months old.

5. It has been held by the Apex Court in State of Haryana and others Vs. Ch. Bhajan Lal and others, , as under :-

The following categories of cases can be stated by way of illustration wherein the extraordinary power under Article 226 or the inherent powers u/s 482, Cr.P.C. Can be exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently chennelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases whereinsuch power should be exercised :-

(1) Where the allegations made in the first information report or the complainant, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers u/s 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do no disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a Police Officer without an order of Magistrate as contemplated u/s 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceedings is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

6. The present case has its own peculiar facts. FIR in question was got registered by respondent No. 2 against the petitioner on 3.6.2006 under Sections 363, 366 IPC. However, now petitioner and Anju Bala daughter of respondent No. 2 have performed the marriage on 28.1.2007. In these circumstances, continuation of criminal proceedings would jeopardise their married life and the ends of justice require that the criminal proceedings are quashed. Moreover, no useful purpose would be served by continuing with the criminal proceedings any further.

7. Accordingly, this petition is allowed. FIR in question i.e. 61 dated 3.6.2006 registered under Sections 363,366 IPC at Police Station Sadar Jagadhri, District Yamuna Nagar (Annexure P3) and all consequential proceedings arising therefrom qua the petitioner are quashed.