
(1998) 03 J&K CK 0007
In the Jammu And Kashmir High Court
Case No : 561-Cr.P.C. No. 20 Of 1997

Shabnam Ara

APPELLANT

Vs

State of J & K

RESPONDENT

Date of Decision : 30-03-1998

Acts Referred:

Jammu and Kashmir Criminal Procedure Code, 1989 — Section 154, 156, 561A
Ranbir Penal Code, 1989 — Section 363

Citation : (1999) KashLJ 704 : (1998) SriLJ 294

Hon'ble Judges : Syed Bashir-Ud-Din, J

Bench : Single Bench

Judgement

1. This petition has been moved for quashing FIR No. 169/97 under Section 363 R.P.C Registered on 2.7.97 at Police Station Shopian and

proceedings taken thereto on the ground that the petitioner Shabnam Ara is a student of B.SC and Riyaz Ahmad Sofi Ex. student of B.E.

Engineering, were married to each other. Both were major and consented to the marriage. The marriage is evidenced by the Nikahnema,

registration of marriage agreement by Sub Registrar, Kulgam and affidavit executed before the Registration of the marriages (Annexure B to E).

The relations of the petitioner did not take all this in right spirit and in fact were annoyed and are hostile to her and Riaz Ahmad Sofi. Her in law arc

respectable people. They are being harassed. The maternal uncle and other relations of the petitioner lodged FIR 169/ 97 under section 363 at

police station, Shopian alleging falsely her kidnapping by her husband and his relations. The petitioner has also filed civil suit in the court of Munsiff

Chadoora for declaration and injunction and obtained an injunction order in that case. The FIR is sought to be quashed on the ground that

petitioner is reported to be a major on the date of alleged occurrence, who has of her own married the said Riaz Ahmad and the question of kidnapping does not arise.

2. Despite repeated opportunities to petitioner from October 13, 1997, the petitioner has not appeared. Even, the counsel for respondents has not appeared today. The record has been perused and matter considered. Admittedly case has been registered by Police station Shopian as FIR No.

169/97 on 29/1997 under section 363 R.P.C. The case as per available record is under investigation. The question of petitioner being major on the

day of occurrence and her alleged marriage inter alia as per Annexure A, with Riaz Ahmad as evidenced by Annexure B to Annexure E, are matters

for the investigating agency to be taken note of and to consider and determine their impact on the question. Similarly, her filing of the suit in the

court of Munsif Chadoora (Annexure F) and the orders if any passed in that suit shall have also to be reckoned with by the investigating officer.

No definite opinion can be framed by the court on all these papers which are photostat copies. At this stage the genuineness or otherwise of the

documents is a matter again for the investigative agency and the concerned court(s). It was perhaps in this context that a bench of this court on

10/7/1997, while admitting petitioner to bail, directed her to appear before the police station at Shopian and to cooperate with the investigating

agency and the concerned investigating officer who was directed to take into consideration the effect of the documents in possession of the

petitioner once filed before the Investigating officer and contextually the proceedings were observed as "" premature in the sense that the FIR has

been registered and is under the investigation"".

3, It is settled law that investigations undertaken by the police on information disclosing cognisable offence cannot be quashed under Section

561A Cr.P.C, after all police under sections 154 and 156 Cr.P.C have statutory right to investigate a cognisable offence. It is not the practice of

the High Court to go into the disputed questions of fact under this section. Besides, the matter in this case is the subject of contest between the

parties in civil court and the matter is at initial stage. The High Court in the totality of facts and circumstances of this case, is not to interfere,

much less to quash on going investigations at police station Shopian.

4. For the aforesaid reasons, this petition is rejected and as such, dismissed.