

(2013) 03 AHC CK 0191
In the Allahabad High Court

Shamim @ Naseem @ Naimullah and Anr.	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 21-03-2013

Acts Referred:

Citation : (2013) 03 AHC CK 0191

Hon'ble Judges : Ravindra Singh, J and Anil Kumar Agarwal, J

Final Decision : Disposed Of

Judgement

Anil Kumar Agarwal, J.

Heard the learned counsel for the petitioners and the learned A.G.A.

This petition has been filed by the petitioners with a prayer to quash the F.I.R. in case crime no. 165 of 2012 under section 363,366 I.P.C. P.S. Haata district Kushi Nagar.

From the perusal of the F.I.R. it appears that on the basis of the allegations made therein a prima facie cognizable offence is made out. There is no ground for interference. In the F.I.R. Therefore, the prayer for quashing the impugned F.I.R. is refused.

However, considering the submission made by the learned counsel for the petitioner that the alleged kidnapped girl Sandhya @ Aisha Fatima is major and she has performed the marriage with petitioner no.2 Shamim @ Naseem @ Naimullah and she is living in his company as his house wife with her free will and consent, it is directed that if the alleged kidnapped girl Sandhya @ Aisha Fatima, appears/ produced before the court of learned C.J.M. Kushi Nagar, within 20 days from today and moves an application for her medical examination, recording her statements under section 161 Cr.P.C. and 164 Cr.P.C., the learned Magistrate concerned shall fix a date for the same purpose on that date the first informant and officer in charge of the police station shall be summoned, she shall be produced before the C.M.O. concerned by the concerned police officer for her medical examination thereafter she shall be produced before the C.J.M.

concerned for recording her statement under section 164 Cr.P.C., the same shall be recorded on the application filed by the I.O./Officer in charge of the police station concerned, till then no coercive step shall be taken against the petitioners, in default to it, it shall be open to the police authority concerned to arrest the petitioner, if she is found major and does not support the F.I.R. version, the petitioner shall not be arrested till submission of the police report under section 173(2) Cr.P.C. but the petitioner shall cooperate with the investigation. In case, the alleged kidnapped girl appears to be minor or if she is major but supports the prosecution version, it shall be open to the police authority to arrest the petitioner.

It is directed that issue of custody of the alleged kidnapped girl shall be decided by the C.J.M concerned in accordance with law.

It is further directed that in case the petitioner approach the S.P. Kushi Nagar, to provide them protection for the purpose of appearing before the court concerned to record the statement of the kidnapped girl Sandhya @ Aisha Fatima under section 164Cr.P.C., and for medical examination, the same shall be provided.

With the above direction this petition is finally disposed of.