
(2018) 04 RAJ CK 0094

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 1663 of 2018

Smt. Chetan Kumawat @APPELLANT@Hash State Of Rajasthan & Ors.

Date of Decision : 09-04-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 363, 366

Citation : (2018) 04 RAJ CK 0094

Hon'ble Judges : KANWALJIT SINGH AHLUWALIA, J

Bench : Single Bench

Advocate : Yunus Khan, NS Dhakad, Biri Singh Sinsinwar, Imran Khan

Judgement

The present petition has been filed under Section 482 Cr.P.C., seeking quashing of FIR No.59/2018 registered at Police Station Nareena, District

Jaipur Rural, for the offences under Sections 363 and 366 IPC.

This Court on 3.4.2018 had passed the following order:-

â??Petitioner No.1 is present in court. Counsel for the petitioners has submitted that petitioner No.1 was born on 23.06.1999 and hence, she is major

and she has performed marriage according to her own accord and wish with petitioner No.2. Counsel has contended that impugned FIR is misuse and

abuse of process of law.

Issue notice to the respondents.

On the asking of Court, Mr. Prakash Thakuriya, Id. PP, accepts notice on behalf of respondent Nos.1 to 4.

Respondent No.4 through Mr. Prakash Thakuriya, Id. PP, is directed to serve a notice upon respondent No.6 regarding pendency of the present

petition and the next date fixed before this court.

Meanwhile, Deputy Registrar(Judicial) is directed to record the statement of

petitioner No.1, today upon identification by the counsel.

To await statement of petitioner No.1 recorded by Deputy Registrar(Judicial), list the present petition on 09.04.2018. On that date, Investigating

Officer along with the records shall remain present in court.

Meanwhile, further proceedings arising out of impugned FIR are stayed. A further direction is issued to respondent No.4 to ensure necessary vigil that

no harm is caused to the life and liberty of the petitioners.

Name of Mr. Prakash Thakuriya, PP, be reflected in the cause list as counsel for the respondent Nos.1 to 4.

Copy of this order be handed over to Mr. Prakash Thakuriya, PP, under the seal and signature of Court Master for onward transmission and

necessary compliance.â??

In pursuance thereof, the statement of Chetan Kumawat was recorded by Dy. Registrar (Judicial) and the said statement for ready reference is

reproduced below:-

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eSa Jhefr psru dkekor] iq=h Jh cksnwjke dkekor] ifRu Jh ;ksxs'k dkekj vk;q yxHkx 19 o""kZ] tkfr dkekor fuoklh eks:Unk] xzke iapk;r Jhjkeiqjk] Fkkuk

ujsuk] ftyk t;iqj] gky fuoklh& 462] ngeh okykxa dh 'kiFk iqoZd c;ku djrh gWw fd ejs h tUe frfFk 30-06-1999 gSA ;ksxs'k dkekj dh esjs xkao esa fj'rsnkjh gSA fiNys 2 lky ls eSa vkSj ;ksxs'k ifjfr gSA

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;ksxs'k ds lkFk pyh x;h FkhA ?kj ls tkrs oDr eSa vius ixkft;kckn esa vk;Z lekt efUnj esa 'kknh dj yh gSaA rc ls eSa vius ifr ;ksxs'k ds lkFk jg jgh gWwA 'kknh eSus viuh ethZ ls dh gSA eSus 'kknh fdh ds

cgdkos o ncko esa vkdj ugha dh gSA esjk dksbZ vigj.k ugha gqvk gSA esjs HkkbZ eksugyky us ujsuk Fkkus esa tks ,Q-vkbZ-vkj ntZ dj;k;h gS] oks xyr

gSA ejs s ifjokj okys jkeiky th] xksiky th] ikpw th] jkepUnz HkkbZ vkfn ij tks bTtke yxk jgs gS oks xyr gSA ;ksxs'k ds lkFk eSa viuh ethZ ls x;h Fkh

vkSj ethZ ls 'kknh dh gSA gekjh 'kknh ls ;ksxs'k ds ekrk&firk dks dksbZ ,srjkt ugha gSaA eSa vius ifr ;ksxs'k dkekj ds lkFk jguk pkgrh gWwA ejs s

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ASI Hanuman Sahai, Police Station Naraina, Jaipur is present in the court alongwith file of the case.

The learned Public Prosecutor on instructions from ASI Hanuman Sahai, has submitted that as per record, petitioner no.1 Chetan Kumawat is aged 18 years and four months.

Admittedly, petitioner no.1 has attained majority and she has constitutional guarantee to reside wherever she so wishes.

Mr. Biri Singh Sinsinwar the learned Sr. Counsel appearing for Mr. Boduram Kumawat and Mohan Lal Kumawat, brother and father of the petitioner

no.1, has submitted that the petitioner has told a lie to this Court that her husband is more than 21 years of age, whereas she has furnished particular of age of elder brother of her husband.

In the present case, FIR has been registered for kidnapping of minor from lawful guardianship. In the present case, petitioner no.1 is not minor and she

has performed marriage. The FIR for offences under Sections 363 and 366 IPC cannot be sustained, hence, the present petition is accepted and the impugned FIR alongwith its all subsequent proceedings is quashed.

At this stage, Mr. Biri Singh Sinsinwar, learned Sr. Counsel for the respondents has submitted that as per him, petitioner no.1 has performed marriage with elder brother of Yogesh Kumar petitioner no.2.

With whom petitioner no.1 has performed marriage, the credence is to be given to the statement made by petitioner no.1 before the Dy. Registrar

(Judicial), as she being major has performed marriage, therefore, plea raised by Shri Biri Singh learned Senior Counsel is not accepted.

A further direction is issued to the Superintendent of Police, Jaipur Rural, Jaipur District to provide protection to the petitioners so that no harm is

caused to life and liberty of the petitioners.