
(2012) 04 P&H CK 0148

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous M 36830 of 2011

Sukhjinder Singh alias Rinka

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 03-04-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 363, 366

Citation : (2012) 04 P&H CK 0148

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Advocate : J.S. Brar, for the Appellant; D.S. Mann, AAG, Punjab and Mr. Anil Kumar, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Nirmaljit Kaur, J.—This is a petition u/s 482 Cr.P.C for quashing of FIR No. 97 dated 02.10.2011 under Sections 363/366 IPC (P1), Police Station Kot Bhai, District Muktsar and all the subsequent proceedings arising out of the same. It is contended that due to party faction in the village Sukhna Ablu, the petitioner has been falsely implicated in the present FIR. The said FIR was got registered by respondent No. 4 with the allegations that the petitioner kidnapped his daughter namely Jasvir Kaur (respondent No.5) with an intention to marry her.

2. At the time of issuing notice of motion on 06.12.2011, the following order was passed:

Learned counsel for the petitioner, while referring to the FIR in question, has argued that age of Jasvir Kaur, respondent No. 5 is 23-24 years, therefore, she is free to roam around according to her own wish. He has further argued that a false and frivolous complaint has been filed against the petitioner.

Notice of motion.

Mr. Sushant Batish, Advocate has accepted notice on behalf of respondent No. 5.

Jasvir Kaur, respondent No. 5 duly identified by Mr. Sushant Batish, Advocate is personally present in the Court. She has stated before me that her date of birth is 06.05.1988 and she is major. She has further stated that she is pursuing her MCA course in Chandigarh and she has never been abducted by the petitioner. She has further stated that her parents do not want her to join further studies.

Sukhjinder Singh alias Rinka, petitioner is also present in the Court who is duly identified by Mr. J S Brar, Advocate appearing for the petitioner. He has also stated that he has never abducted Jasvir Kaur although he knows her.

Both, petitioner and respondent No. 5, shall appear before respondent No. 2 on 12.12.2011, who shall record statements of respondents No. 5 as well as the petitioner. If respondent No. 5 states that she has never been abducted or kidnapped by the petitioner and she does not want to live with her parents, necessary protection shall be provided to respondent No. 5. He shall forward his report to this Court by the next date fixed.

List on 28.03.2012.

Meanwhile, no arrest shall be effected pursuant to FIR in question.

3. In pursuance to the said order, Reply on behalf of respondents No. 1 to 3 has been filed. In the said reply, it is stated that statements of Jasvir Kaur Respondent No. 5 and petitioner have been recorded before respondent No. 2. Statement of Jasvir Kaur recorded before Respondent No. 2 reads as under:

State that I am resident of above address. My date of birth is 16.05.1988. I am adult. I know what is wrong or right for me. At present I am studying in MCA at Chandigarh. I want to get higher studies but my family did not want to send me out of village for higher studies and want to marry me against my wishes. On dated 29.08.2011, I leave my home at village Sukhna Ablu and went to Chandigarh for studies. When I left the village, my mother got registered a case FIR No. 97 dated 02.10.2011 under sections 363, 366 IPC at PS Kotbhai against Sukhjinder Singh alias Rinka resident of Village Sukhna Ablu now resident of Barnala Road Rampura Phool for abducting me. Sukhjinder Singh alias Rinka had neither abducted me or pressurized me for marriage nor he had abducted or eloped me for marriage. I went to Chandigarh for studies with my own free will. I do not want to live with my parents at village Sukhna Ablu. I want to live at Chandigarh alone. I am running my livelihood at Chandigarh by giving tuition. There is no need for her security. I do not want to take security. The aforesaid case registered against Sukhjinder Singh alias Rinka be quashed. I have no objection in it.

4. From the above, it is clear that the respondent No 5. has neither been kidnapped or abducted by the petitioner and nor has been pressurized for marriage. In her statement, respondent No. 2 stated that she is major and does not require any security. She has no objection to the quashing of the said FIR. As such, no offence u/s 363/366 IPC can be said to be made out against the

petitioner. In view of the facts as above, allowing the trial to proceed further in pursuance to the said FIR would be nothing but a sheer misuse of process of law. Accordingly, the present petition is allowed and FIR No. 97 dated 02.10.2011 under Sections 363/366 IPC (P1), Police Station Kot Bhai, District Muktsar and subsequent proceedings arising out of the same are hereby quashed.