

CRM-M-5992-2023

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of Decision : 17.02.2023

Tek Chand

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.I.S.Dhaliwal, Advocate
for the petitioner.

Mr. Amish Sharma, Asstt. A.G., Punjab.

Mr. Gourav Bhayyia Gilhotra, Advocate and
Mr. Akash Manocha, Advocate
for respondent No.3.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition is seeking quashing of FIR No.10 dated 18.01.2019 (Annexure P-1), registered at Police Station City Malout, District Shri Muktsar Sahib, under Sections 363 and 366-A of IPC.

2. The case of prosecution is that Bhag Chand-respondent No.2 lodged a complaint with police averring that he is a labourer and has three children. On 17.01.2019, he along with his family members was sleeping in the room where his children were also sleeping. His eldest daughter Anuradha was also sleeping in the room. On 18.01.2019, in the morning, they found that their daughter Anuradha is not in the room. They searched in their neighbourhood but could not trace her out. Later on, they came to know that one boy of their neighbourhood namely Tek Chand has taken

away their daughter by enticing her on the pretext of marriage. His daughter has taken away her Aadhar Card and Rs.60,000/-.

3. The petitioner and respondent No.3 solemnized marriage on 03.07.2019 in Gurudwara Sahib Sri Guru Hargobind Sahib Ji, Sri Muktsar Sahib. The petitioner (boy) and respondent No.3 (girl) filed CRM-M-3024 of 2019 before this Court seeking protection of their lives and liberty. This Court vide order dated 17.09.2019 disposed of said petition with a direction to SSP, Sri Muktsar Sahib to take note on the representation of the petitioners and act in accordance with law.

4. Learned counsel for the petitioner, *inter alia*, submits that petitioner has solemnized marriage with prosecutrix (daughter of the complainant) on 03.07.2019 and they are blessed with two children. He has filed CRM-8164-2019 before this Court seeking anticipatory bail before this Court and this Court while passing order dated 16.09.2022 has noticed all the facts.

5. Reply dated 16.02.2023 by way of affidavit of Balkar Singh, PPS, Deputy Superintendent of Police, Sub Division Malout, District Sri Muktsar Sahib is taken on record. Registry is directed to tag the same at appropriate place.

6. Learned State counsel on instructions from HC Bohar Singh submits that it is a factually correct that the petitioner and respondent No.3 have solemnized marriage and they are blessed with two children. He further states that respondent No.2 had appeared before the police authorities and stated that he has no objection if further proceedings are quashed.

7. Learned counsel for respondent No.3 *inter alia* submits that respondent No.3 is staying with the petitioner and they have solemnized

marriage. He confirms that couple is blessed with two children and further submits that respondent has no objection if the present FIR is quashed.

8. I have heard the arguments of both sides and perused the record.

9. The relevant extracts of the order dated 16.09.2022 in CRM-M-8164-2019 read as under:

On 17.09.2019, the following order was passed:

“In order to create the sense of security in the mind of Anuradha who has statedly solemnized marriage with the petitioner, learned counsel for the petitioner, on instructions from the petitioner who is present in the Court, states that the petitioner is ready to deposit a sum of Rs.2.5 lakh in the name of Anuradha. However, he prays for some reasonable time to make such deposits.

Accordingly, petitioner shall deposit a sum of Rs.1 lakh within one month from today, whereas the remaining amount of Rs.1.5 lakh shall be deposited by him within another six months. Petitioner shall produce an FDR for a period of three years in the name of Anuradha for a sum of Rs.1 lakh before this Court on the next date of hearing.

Adjourned to 24.10.2019.

In the meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the arresting officer. However, the petitioner shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner contends that the petitioner has solemnized marriage with the daughter of the complainant and they have been blessed with a son and daughter. The petitioner had deposited a sum of Rs.1,00,000/- in fixed deposit in terms of order dated 17.09.2019 and placed on record the copy of the FDR. FDR for the other amount of Rs.1,50,000/- has also been prepared in Indian Bank on 14.09.2022 bearing TDR No. 0144514 in the name of the daughter of the complainant. The copy has been placed on record. The daughter of the complainant is happily residing with both the minor children in the matrimonial house with the petitioner. In pursuance of interim directions, the petitioner has joined the investigation.”

10. In Indian culture, irrespective of caste and religion, marriage is neither compromise nor a contract but it is a sacrosanct knot of two families. It is not physical meeting of two persons of opposite sex whereas it is most important & pious institution of our society where two families become one. Importance of marriage further finds support from the fact that a child from a couple without marriage is not as recognised as a child from a duly wedded couple.

11. Swayamvar i.e. marriage by your own choice is not a modern phenomena. Its roots can be traced in ancient history including holy books like Ramayana, Mahabharata. Our Constitution in terms of Article 21 is enforcing this human right as fundamental right.

12. Object of law whether customary, religious or made by legislature, is to protect life and liberty of every human being. Object of law is not to disturb settled life of anyone without his fault. A man can be

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punished for commission of an offence, however, he cannot be punished just because his act is not liked by anyone else.

13. In the case in hand, the parties are major and they have performed marriage though against the wish of their parents. They are happily cohabiting and no one including courts and law enforcing agencies have right to disturb their life without their fault. They have right to live their life in the way and manner they like. They are blessed with two children. With a pending criminal case, nobody can lead a happy life. State has no right to interfere in the life of a duly married couple. Continuance of criminal proceedings is not only going to disturb life of the petitioner but also there are all possibilities of disturbance in life of respondent No. 3 and their children. Our State is a welfare State, however, there is no mechanism to provide accommodation, food and other basic daily needs to the dependent of a convicted person. In our country, except stray cases of urban population, it is man who is earning and taking care of his wife and children.

14. Keeping in mind above facts and circumstances, this court is of the considered opinion that present petition deserves to be allowed and accordingly allowed.

(JAGMOHAN BANSAL)
JUDGE

17.02.2023

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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>