

Sheetal and Another Vs. State of Punjab and Another

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Court : Punjab and Haryana

Decided On : Sep-11-2013

Appellant : Sheetal and Another

Respondent : State of Punjab and Another

Judgement :

Crl.

Misc.

No.M-14022 of 2011 (O&M) -1- In the High Court of Punjab and Haryana at Chandigarh Crl.

Misc.

No.M-14022 of 2011 (O&M) Date of Decision: September 11, 2013 Sheetal and another ---Petitioners versus State of Punjab and another ---Respondents Coram: Hon'ble MRS.Justice Rekha Mittal Present: Mr.Raj Kumar Garg, Advocate for the petitioners Mr.Param Preet Singh Paul, DAG, Punjab for respondent-State.

Mr.S.S.Tiwana, Advocate, for respondent No.2 *** REKHA MITTAL, J.

CRM No.37084 of 2011 Allowed as prayed for.

Reply filed on behalf of respondent No.2 is taken on record.

CRM No.M- 14022 of 2011 The petitioners pray for quashing of FIR No.134 dated 9.10.2010 for offence under Sections 363, 366-A IPC, registered at Police Station, C Division, Amritsar and proceedings emanating therefrom.

The facts in brief are recapitulated as under:- Rajwant Singh son of Raghbir Singh father of Jaspreet Kaur, lodged fiRs.information report on the allegations that Jaspreet Kaur, his daughter, aged about 15 years is a student of class X at Shri Guru Harkishan School, Gate Bhagatanwala.

On 6.10.2010, his daughter left for school in the morning but did Saini Paramjit Kaur 2013.09.17 14:07 I attest to the accuracy and integrity of this document Chandigarh Crl.

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No.M-14022 of 2011 (O&M) -2- not return.

On enquiry, he learnt that Saurabh Behl son of late Vipin Behl and Minku son of Gopal Kishan have enticed his daughter.

Their family members did not give any satisfactory reply when he approached them.

He suspects that Rajjo mother of Minku, Prem Behl mother, Gaurav Behl brother, Sheetal and Shivani, sisters of Saurabh Behl have also joined hands in taking away his daughter.

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Counsel for the petitioners submits that the petitioners are married step sisters of Saurabh Behl and they are living in different villages.

They have been falsely implicated in the FIR merely on the basis of suspicion and not on the basis of any evidence.

It is further submitted that father of the petitioners had married twice and Saurabh Behl was born from the second wife of their father.

The petitioners are not on speaking terms with accused Saurabh Behl and they are not even on visiting terms to their parental house after death of their father on 14.11.2007.

The petitioners have no concern whatsoever with accused Saurabh Behl nor they know the girl allegedly kidnapped by Saurabh Behl.

It is further argued that the alleged kidnapped girl and accused Saurabh Behl have not been recovered till date and there is every possibility that they might have performed marriage and leading a married life which is otherwise not to the knowledge of the petitioners. The last submission made by counsel is that criminal proceedings initiated against the petitioners are nothing but an abuse and misuse of process of law., therefore, the same are liable to be quashed.

Counsel for the contesting respondent, on the contrary, argues that the allegations set up by the petitioners that they are not on speaking Saini Paramjit Kaur 2013.09.17 14:07 I attest to the accuracy and integrity of this document Chandigarh Crl.

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No.M-14022 of 2011 (O&M) -3- terms with Saurabh Behl or not visiting their parental house after death of their father in November 2007, are questions of fact which cannot be adjudicated in the proceedings under Section 482 of the Code of Criminal Proceedings.

It is further argued that a report under Section 173 of the Code has already been submitted after completion of investigation, therefore, there is no reason to terminate the proceedings prematurely.

Counsel for the State of Punjab has opposed the prayer of the petitioners. however, he concedes that besides the allegations levelled by the complainant in the FIR, no other incriminating material has come into light against the petitioners to attribute any specific role to them in the alleged occurrence.

I have heard counsel for the parties and gone through the case file.

The respondent State has not filed any reply to controvert the allegations of the petitioners that Saurabh Behl is step brother of the petitioners and the petitioners are married, living in different villages and are not on visiting or speaking terms with Saurabh Behl.

Respondent No.2, in reply, has not specifically denied the petitioners to be step sisters of Saurabh Behl but it has been averred that Saurabh Behl being step brother of the petitioners is no ground to show that they (petitioners) do not have link with the accused.

It is further averred that the petitioners have connived with Saurabh Behl, who abducted minor daughter of respondent No.2.

Counsel for the State is fair enough to concede that during investigation of the case, no such material was collected to prove Saini Paramjit Kaur 2013.09.17 14:07 I attest to the accuracy and integrity of this document Chandigarh Crl.

Misc.

No.M-14022 of 2011 (O&M) -4- connivance of the petitioners with Saurabh Behl to take away daughter of the complainant.

The complainant simply expressed his suspicion that the mother, brother and sisters of Saurabh Behl have also joined hands in taking away his daughter by Saurabh Behl and Minku.

Indisputably, charge can be framed against an accused on the basis of strong suspicion as well.

In the case in hand, except suspicion expressed by the complainant, there is no evidence against the petitioners that either they were available in the house of Saurabh Behl or in Amritsar on the day of occurrence.

It appears to the Court that the complainant in an effort to exert pressure upon the family of accused Saurabh Behl has implicated all his family members including the petitioners indisputably married step sisters of the accused.

The criminal proceedings, in the facts and circumstances of the present case, against the petitioners are nothing but an abuse and misuse of the process of law which cannot be allowed to continue.

In this view of the matter, it would be unfair to compel the petitioners to undergo the rigor of a criminal trial.

In the interest of justice, it is deemed appropriate to quash the FIR.

In the result, the petition is allowed.

FIR No.134 dated 9.10.2010 for offence under Sections 363, 366-A IPC, registered at Police Station, C Division, Amritsar and proceedings emanating therefrom are quashed qua the petitioners. However, nothing said in this order shall prejudice the continuation of criminal proceedings against the other accused.

(REKHA MITTAL) JUDGE September 11, 2013 PARAMJIT Saini Paramjit Kaur
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