

Gwalior Dt. 30/11/17

Shri M.K.Jain, Advocate for the petitioner.

Shri N.S.Kirar, Public Prosecutor for the State.

Inherent powers of this court u/S. 482 Cr.P.C. are invoked seeking quashment of the FIR dated 17/4/2017 bearing Crime No.42/17 registered at Police Station Vidisha (M.P.) alleging offence punishable u/S. 363 I.P.C.

Learned counsel for the rival parties are heard.

The sole ground on which the aforesaid challenge is based as per learned counsel for the petitioner is that the prosecutrix in her testimony before the court as PW-1 recorded on 11/10/2017 has categorically stated that at the time of alleged incident, i.e. 13/4/2017 she had attained the age of majority based upon her date of birth of 12/4/1999 and that she had eloped with the accused on her own volition. In this factual background, it is submitted that permitting the prosecution to continue in the face of the categorical exonerative statement of the prosecutrix would be an exercise in futility.

The prosecution had come forward with a case that the date of incident of kidnapping was 10/4/2017 as alleged in the FIR lodged by the father of the prosecutrix Raghuvir Ahirwar. Admittedly, on the said date of the incident as reported by the father of the prosecutrix the prosecutrix was 2 days short of attaining age of majority of 18 years.

Merely because the prosecutrix has given exonerative statement before the court does not demolish the prosecution story according to which prosecutrix was minor on the date of incident i.e. 10/4/2017 and not 13/4/2017 as claimed by prosecutrix.

If the request made is acceded to it would open floodgate where the prosecutrix is coerced into giving exonerative testimony

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before court which is raised as a foundation by the accused to abort the prosecution prematurely.

The said shortcut procedure adopted by the accused cannot be countenanced by law.

Since there is no failure of justice, no case is made out for exercising inherent jurisdiction by this court.

Accordingly, the petition fails and is dismissed.

(Sheel Nagu)
Judge

(Bu)