[2025] 1 S.C.R. 1392 : 2025 INSC 137

# Kuldeep Singh
# v.
# The State of Punjab & Ors.

(Criminal Appeal No. 520 of 2025)

31 January 2025

**[Vikram Nath* and Prasanna B. Varale, JJ.]**

## Issue for Consideration

The accused-appellant's petition u/s.482 of the Criminal Procedure Code, 1973 seeking quashing of the FIR u/ss.366, 376 and 506 of Penal Code, 1860 was dismissed by the High Court.

## Headnotes†

**Penal Code, 1860 – ss.366, 376 and 506 – Allegation against the accused-appellant that he abducted the respondent no. 3/victim – FIR u/s.366 IPC was registered – Whereas, it was the case of the appellant that he and respondent no. 3 had married each other – The respondent no. 3 had recorded a statement u/s.164 of the Cr.P.C, with the JMFC raising allegations of rape against the appellant and also alleged that the marriage was solemnised forcibly by the appellant – After investigation, the SIT filed the inquiry report – s.366 of IPC was deleted and only ss.376 and 506 of IPC survived against the appellant as per the charge-sheet – Appellant sought quashing of criminal proceedings – The High Court, vide the impugned order, had dismissed the appellant's petition – Correctness:**

**Held:** The appellant has also brought to notice the written statement dated 01.08.2023 filed by the respondent no. 3 in the matter of restitution of conjugal rights and highlighted that she has nowhere made any allegations pertaining to rape against the appellant in the said written statement – There is also an order passed by the High Court on 21.06.2022 providing protection to the petitioners therein being the appellant and respondent no. 3 – The said petition was jointly filed by the appellant and respondent no. 3 seeking protection from the family members of the respondent no. 3 as she had married the appellant of her own free will and

* Author

volition against the wishes of her family members – Further, the respondent no. 3 or for that matter respondent no. 2 despite service of notice, have not come forward to dispute or deny the above facts – It must be noted that the case as of now, after the filing of charge-sheet, survives only to the extent of allegations u/ss.376 and 506 of IPC as it was established during the inquiry that the victim had solemnised the marriage with the appellant out of her own free will – It has been rightly pointed out by the appellant that as per Exception 2 u/s.375 of IPC, sexual intercourse by a man with his own wife cannot be termed as rape and, hence, a charge u/s.376 of IPC cannot be sustained against the appellant – Further, the conduct of the respondent no. 2 and 3 in failing to enter appearance despite sufficient notice is reflective of the fact that it is a dead case where no purpose shall be served in continuing the criminal proceedings alleging charges of rape against the appellant – As such, given the facts and circumstances of the case, it is evident that no *prima facie* case constituting any offence is made out against the appellant and he is entitled to the relief sought – Thus, the impugned FIR filed against the appellant and all consequential proceedings arising therefrom deserve to be quashed. [Paras 12, 13, 14, 15, 16, 17]

**List of Acts**

Penal Code, 1860; Code of Criminal Procedure, 1973.

**List of Keywords**

Rape; Abduction; Quashing of criminal proceedings; Marriage; Restitution of conjugal rights; Free will; Exception 2 u/s.375 of IPC; Sexual intercourse by a man with his own wife; Notice; Appearance.

**Case Arising From**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 520 of 2025

From the Judgment and Order dated 22.08.2023 of the High Court of Punjab & Haryana at Chandigarh in CRMM No. 41161 of 2023

**Appearances for Parties**

Miss Aanchal Jain, Karan Dewan, Advs. for the Appellant.

Mohd Irshad, A.A.G., Karan Sharma, Advs. for the Respondents.

**Judgment / Order of the Supreme Court**

**Judgment**

**Vikram Nath, J.**

1. Leave granted.

2. The instant appeal has been preferred against the order dated 22.08.2023 passed by the High Court of Punjab and Haryana in CRM-M-No. 41161 of 2023 wherein the accused-appellant's petition under Section 482 of the Criminal Procedure Code, 1973[1] seeking quashing of the FIR No. 148 dated 14.06.2022 under Section 366, 376 and 506 of Indian Penal Code, 1860[2] was dismissed.

3. Brief facts of the matter are that Respondent No. 2 is the complainant and cousin of Respondent No. 3/victim and FIR No. 148 of 2022 was lodged by him stating that the victim who was working at National Insurance Company and was dropped at her office by the complainant on the morning of 13.06.2022. It was stated in the FIR that she had left her office at around 1.30 p.m. that afternoon and when she did not return, the complainant feared that she has been abducted by the appellant herein who was alleged to be harassing her for the past few days. Thus, the said FIR was lodged under Section 366 of IPC against the appellant.

4. Whereas, it was the case of the appellant that the appellant and Respondent No. 3 had married each other on 15.06.2022 as per Sikh rites and ceremonies against the wishes of the relatives of the Respondent No. 3 and hence, the said FIR has been lodged against him which deserves to be quashed. The appellant had also stated that post their marriage in view of the opposition by the family members of the Respondent No. 3, the couple had also filed a protection petition being CRWP No. 5913 of 2022 dated 16.06.2022 before the High Court seeking protection of their life and liberty. The said relief was granted by the High Court *vide* order dated 21.06.2022.

5. However, the Respondent No. 3 allegedly returned to her parental home on 31.08.2022 which had also led to the appellant filing a

1 Cr.P.C.

2 IPC

Petition under Section 9 of the Hindu Marriage Act, 1955 before the Family Court seeking restitution of conjugal rights with his legally wedded wife, i.e. the Respondent No. 3.

6. In the meanwhile, the Respondent No. 3 on 01.09.2022 recorded a statement under section 164 of the Cr.P.C, with the Ld. JMFC raising allegations of rape against the appellant and also alleged that the marriage has been solemnised forcibly by the appellant. It was further alleged that mother and brother of the appellant had also assisted the appellant in the commission of said crimes. Accordingly, the names of brother and mother of the appellant were also added to the FIR along with addition of Sections 363, 120B and 376 of IPC.

7. Accordingly, the Special Investigation Team[3] consisting of Superintendent of Police, Hoshiarpur, Deputy Superintendent of Police-Crime against Women and Children, Hoshiarpur and Deputy Superintendent of Police-Sub Division City Hoshiarpur had conducted investigation in the matter and filed an inquiry report. In furtherance of the inquiry report, the police filed the challan dated 01.07.2023 under Section 173 of Cr.P.C. which stated that from the investigation conducted by SIT, allegations levelled by the victim against Kuldeep Singh regarding kidnapping and pressurizing her for marriage have not been proved as it was found that the victim has solemnised the marriage with the appellant with her own consent. It was also found that no role can be attributed to the mother or brother of the appellant and hence they were completely exonerated as no evidence could be collected against them. As such, Section 366 of IPC was deleted and only Sections 376 and 506 of IPC survived against the appellant as per the chargesheet.

8. Thereafter, the appellant had preferred CRM-M-No. 41161 of 2023 dated 18.08.2023 before the High Court seeking quashing of FIR No. 148 of 2022 and all consequential proceedings. The High Court, *vide* the impugned order, had dismissed the appellant's petition while holding that the petition lacked any merit and the matter required evaluation of evidence and adjudication by the Trial Court.

9. Aggrieved by the said order, the appellant is before us.

---

3 SIT

10. Before moving forward, we find it relevant to note here that neither Respondent No. 2, i.e. the complainant nor Respondent No. 3, i.e. the victim has entered appearance before this Court despite sufficient service of notice.

11. We have heard the learned counsel for the accused-appellant and Respondent No. 1-State and also perused the material on record.

12. It has been submitted by the appellant that he is the legally wedded husband of Respondent No. 3 and therefore no offence under Section 376 of IPC is made out against him since he is covered under Exception No. 2 appended to Section 375 of IPC. The appellant has also brought to our notice the written statement dated 01.08.2023 filed by the Respondent No. 3 in the matter of restitution of conjugal rights and highlighted that she has nowhere made any allegations pertaining to rape against the appellant in the said written statement.

13. It would be relevant to refer to Annexure P-3 which is an order passed by Ld. Single Judge of the Punjab & Haryana High Court in CRWP No. 5913 of 2022 on 21.06.2022 providing protection to the petitioners therein being the appellant and Respondent No. 3. The said petition had been jointly filed by the appellant and Respondent No. 3 seeking protection from the family members of the Respondent No. 3 as she had married the appellant of her own free will and volition against the wishes of her family members. Moreover, it may also be noted that in the reply filed by the Respondent No. 3 to the appellant's petition for restitution of conjugal rights, she has not made any allegation of rape or marriage by force against the appellant. Further, the Respondent No. 3 or for that matter Respondent No. 2 despite service of notice, have not come forward to dispute or deny the above facts.

14. Importantly, it must be noted that the case as of now, after the filing of chargesheet, survives only to the extent of allegations under Sections 376 and 506 of IPC as it was established during the inquiry that the victim had solemnised the marriage with the appellant out of her own free will.

15. In this regard, it has been rightly pointed out by the appellant that as per Exception 2 under Section 375 of IPC, sexual intercourse by a man with his own wife cannot be termed as rape and, hence, a

charge under Section 376 of IPC cannot be sustained against the appellant. Further, the conduct of the Respondent No. 2 and 3 in failing to enter appearance despite sufficient notice is reflective of the fact that it is a dead case where no purpose shall be served in continuing the criminal proceedings alleging charges of rape against the appellant.

16. As such, given the facts and circumstances of the case, it is evident that no *prima facie* case constituting any offence is made out against the appellant and he is entitled to the relief sought.

17. Accordingly, the appeal is allowed and the impugned order of the High Court is set aside. The impugned FIR No. 148 of 2022 dated 14.06.2022 filed before the P.S. Model Town, Hoshiarpur, Punjab against the appellant and all consequential proceedings arising therefrom deserve to be quashed.

18. Pending application(s), if any, shall stand disposed of.

*Result of the case:* Appeal allowed.

†*Headnotes prepared by:* Ankit Gyan