

**Criminal Revision No. 2494 / 2013.**

**16/12/2014.**

Shri Ram Babu Dubey, Advocate for the petitioner / complainant.

Shri Prashant Dubey, Advocate for the respondent no. 1 / accused.

Shri Devendra Shukla, learned PL for the respondent no. 2 / State.

The petitioner / complainant has filed this criminal revision under Section 397/401 of the Code of Criminal Procedure being aggrieved by the order dated 29.10.2013 passed by the Court of 10<sup>th</sup> Additional Sessions Judge, Jabalpur in S. T. No. 624/2013 discharging the respondent no. 1 / accused of the offences under Sections 328 and 366 of the IPC.

As per prosecution story, on 11.12.2012 when the complainant Ku. Aditi Yadav, aged 18 years, student of B.E. 1<sup>st</sup> year, was ready to go to her college, the respondent no. 1 called her at Ranital square. Thereafter, she reached there, where-from the respondent no. 1 / accused took her forcibly to a temple. She was married to him without her consent and he took her signatures on some papers and also took some photographs of her, on the basis of which, he was trying to blackmail and defame her. When, the complainant came to learn about the same, she lodged an FIR at Mandla where-from the report was transferred to Jabalpur as the alleged incident had taken place at Jabalpur. After investigation, charge sheet was filed.

Learned counsel for the petitioner submits that the learned trial court has committed an error in discharging the respondent no. 1 / accused as the complainant / victim was forcibly taken away by the respondent no. 1 / accused. She was married to him against her will. The documents produced by the prosecution have not been properly considered in proper perspective. Counsel further submits that the findings recorded by the learned trial court

being not just and proper deserve to be set-aside and the order of discharge be quashed. To bolster of his submissions the learned counsel has placed reliance upon the judgment in the case of **Rajbir Singh vs State of U.P. and another (2006) 4 SCC 51** and **Smt. Anju Sharma vs Suresh Kumar AIR 1998 Delhi 47.**

Learned counsel for the respondent no.1 / accused supporting the findings recorded by the trial court has submitted that the complainant fell in love with the respondent no. 1 / accused. She was major and student of B.E. classes. She voluntarily left her home and reached Ranital where-from she went along with the respondent no.1 / accused to a temple to marry him and both applied for marriage before the Marriage Officer. Counsel further pleads that the Marriage officer Shri Ashok Nema after verifying the documents issued certificate for marriage. Photographs were also taken in this regard. Statement of the Marriage Officer Ashok Nema was recorded during investigation. He has specifically deposed in his statement that the complainant and the respondent no. 1 / accused both appeared before him for submitting an application for marriage. After inquiry, when he found that both were willing and voluntarily ready to marry with each other, he registered the marriage and issued a certificate in this regard and Shri Rahul Choubey, the priest of the temple, where their marriage was solemnized has also stated in his statement about performing their marriage with their consent. Learned counsel further pleads that the learned trial court after considering the prosecution evidence passed the impugned order discharging the respondent no. 1 / accused as she was neither abducted nor compelled for marriage. Therefore, there is no need to interfere in the findings recorded by the trial court.

Heard the arguments of both the parties and perused the record.

The scope of framing charges has been outlined by the Hon'ble Apex Court in Para 4 of the its judgment in the case of

**State of Bihar vs Ram Singh 1977 (4) SCC 39** (referred in Para 8 of the judgment **Rajbir Singh vs State of U.P. and another** **(supra)** which reads as under :-)

“ Reading [Ss. 227 and 228] together in juxtaposition, as they have got to be, it would be clear that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the Code. At that stage the Court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. .... If the evidence which the prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-

examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial.”

Indisputably, the complainant was major when the alleged incident took place. She was a student of B.E. I<sup>st</sup> year which indicates that she was mature enough. As per her statement she had been phoned by the respondent No. 1/accused to reach Ranital square whereupon she reached there. This indicates that she was neither compelled nor taken forcibly to Ranital square where-from she accompanied the respondent No. 1/accused to a temple. The priest Rahul Choubey has deposed in his statement that the complainant Aditi and the respondent No.1 Yogesh Kumar Chourasia both had approached him to get them married. He verified the age of the complainant on the basis of her mark-sheet and having learnt there from that she was major and willing to get married to the respondent No. 1/accused. He performed their marriage. The said statement emphatically demonstrates that the complainant was under no compulsion to get married to the respondent No.1/accused.

As per the statement of Marriage Officer Ashok Nema it is clear that they had approached him for issuance of marriage certificate. After verifying the documents and consent of both the parties he issued them marriage certificate. Shri Murlidhar Tamrakar Notary has also testified that the complainant and the respondent No.1/accused had approached him for certification of their affidavits. After verifying all the facts, he certified their affidavits. All the aforesaid evidence indicate indubitably that the complainant was not compelled to get married to the respondent No.1/accused.

The alleged incident took place on 12-12-12 and the report was lodged after a period of five months i.e. 21-05-2013 at Mandla where the alleged incident had not taken place. No sufficient reason has been tendered by the prosecution for the delay

in lodging the report. The aforesaid circumstances create a great suspicion about the prosecution story.

After considering the evidence produced by the prosecution along with the charge-sheet the conclusion drawn by the learned trial Court discharging the accused seems to be just and proper and no interference is required in them. Hence, it is concluded that the learned trial Court has not committed any error in discharging the respondent No.1/accused.

Therefore, the revision being meritless is hereby dismissed.

**(M.K.Mudgal)**  
**Judge**

Mohsin/-