

JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT.

W.P No. 2795/Q/2018

Jalal Khan vs. S.H.O, P.S Golra Shareef, Islamabad etc.

Petitioner by: Malik Tahir Mehmood, Advocate
Petitioner in person.

State by: Ms. Saima Naqvi, State Counsel
Mumtaz, S.I.

Respondent No.3 In person.

and

W.P No. 3244/Q/2018

Salma Bibi vs. S.H.O, P.S Golra Shareef, Islamabad etc.

Petitioner by: Malik Tahir Mehmood, Advocate

State by: Ms. Saima Naqvi, State Counsel
Mumtaz, S.I.

Respondent No.3 In person.

Date of Decision: 14.11.2019.

MOHSIN AKHTAR KAYANI, J. By way of this common judgment, I intend to decide the captioned writ petitions having similar question of law and facts arising out of the same F.I.R No. 294, dated 01.07.2018, registered U/s 365-B, PPC, P.S Golra Sharif, Islamabad, whereby petitioners have prayed for quashing of the same.

2. Brief and consolidated facts of the captioned writ petitions are that the complainant Muhammad Munir has lodged the F.I.R No. 294, dated 01.07.2018, registered U/s 365-B, PPC, P.S Golra Sharif, Islamabad with the allegation that on 30.06.2018, his daughter Mst. Salma Bibi aged about 16 years was abducted by the accused persons namely Janat Gul, Jalal Khan, Gul Badin, Dost Muhammad and wife of Gul Badin. The police after registration of FIR started investigation of the matter, whereby two co-accused were arrested and sent to judicial custody.

During the course of investigation, it revealed that the Janat Gul, one of the accused and Salma Bibi (alleged abductee) have entered into Nikah on 02.07.2018, registered at Union Council No. 26, Afandi Colony, Rawalpindi.

3. Learned counsel for the petitioners Jalal Khan and Salma Bibi contends that the Salma Bibi (alleged abductee) is a sui juris, who entered into Nikah with her own free will on 02.07.2018 and has recorded her statement U/s 164 Cr.P.C before learned Judicial Magistrate, Gojar Khan on 30.07.2018 in the criminal case U/s 506 PPC titled as Salma Bibi Vs. Muhammad Munir. Even the Salma Bibi has recorded her statement before the Investigation Officer of the case and contended that she had not been abducted by anyone, rather she had entered into Nikah with her own free will, being sui juris and the Nikahnama was verified from the concerned Union Council in the record of Nikah Registrar.
4. Conversely, respondent No.3 in person has put appearance and contends that his daughter be returned by all means as she has been abducted by force and any such Nikah is not valid.
5. Arguments heard, record perused.
6. From the perusal of record, it reveals that respondent No.3/Muhammad Munir has lodged the F.I.R No. 294, dated 01.07.2018, registered U/s 365-B, PPC, P.S Golra Sharif, Islamabad with the allegation that her daughter Salma Bibi aged about 16 years was abducted by five different individuals for the purposes of *Zina*, whereas alleged abductee Salma Bibi has filed complaint U/s 506 PPC titled as Salma Bibi Vs. Muhammad Munir before the learned Judicial Magistrate of Gojar Khan, District Rawalpindi against the complainant with the allegation that she is sui juris and she has not been abducted by anyone and she has entered into Nikah with her own free will with Janat Gul on 02.07.2018, registered at Union Council No. 26, Afandi Colony, Rawalpindi. The Investigation

Officer of this case has arrested the Jalal Khan, Dost Muhammad and Gul Badin, who have been sent to judicial custody after their physical remand.

7. Salma Bibi (alleged abductee) filed a separate writ petition for quashing of the FIR with the allegation that she was not abducted and even her statement U/s 164 Cr.P.C was recorded before Ms. Ayesha Shabbir, Civil Judge, 1st Class Judicial Magistrate (West), Islamabad on 12.10.2018, which is considered to be voluntary in nature, whereby petitioner Salma Bibi has taken a categorical stance that she entered into Nikah with Janat Gul with her own free will and she was not abducted and the FIR registered on the complaint of respondent No.3/complainant is false and frivolous. Even the Nikahnama brought on record by the petitioner Salma Bibi has been verified by the Investigation Officer, who has independently recorded the stance of the petitioner Salma Bibi and conceded before this Court that the Salma Bibi was not abducted and as per his investigation, offence U/s 365-B PPC is not made out.

8. Be that as it may, while considering the record as well as contentions of the parties including the statement and Nikahnama of Salma Bibi as she is sui juris, who has entered into Nikah with her own free will and the Constitution gives due protection to a woman, especially with regard to right to marry, therefore, the inherent powers available to this Court U/s 561-A Cr.P.C and Article 199 of Constitution of Islamic Republic of Pakistan are meant to cater such like situation, whereby the abuse of process of law is apparent or the very registration of FIR is based on malafide, such FIR should be ought to be quashed.

9. In view of above, both the captioned writ petitions are **ALLOWED** and F.I.R No. 294, dated 01.07.2018, registered U/s 365-B, PPC, P.S Golra Shareef, Islamabad, is hereby **QUASHED**.

(MOHSIN AKHTAR KAYANI)
JUDGE