

Sachin Pawar & Anr vs State Of U.P.& Ors on 2 August, 2013

Bench: J. Chelameswar, H.L. Gokhale

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1142 OF 2013
(Arising out of SLP(CrL.) No.6761/2012)

SACHIN PAWAR & ANR.

Appellant(s)

:VERSUS:

STATE OF U.P. & ORS.

Respondent(s)

O R D E R

Leave granted.

2. Heard Ms. Geeta Luthra, learned senior counsel in support of this appeal, Mr. Irshad Ahmad, learned counsel appearing for the State of U.P. and the learned counsel for the complainant.

3. The complainant respondent No.3 is the brother of appellant No.2. He felt aggrieved by his sister marrying to appellant No.1. It is a marriage between two young persons belonging to two different religions, but it is a marriage to which they themselves agreed. They are both adults. A complaint was filed by respondent No.3 being Crime No.684/2012 at Meerut on 27th July, 2012, alleging that the appellant No.1 herein has kidnapped his sister (appellant No.2 herein).

4. The appellants therefore jointly filed a writ petition bearing Criminal Misc. Writ Petition No.10905 of 2012 in the High Court of Allahabad to quash the said complaint. The High Court passed an order on 9.8.2012 which accepted that these two appellants are adults and they are married. It also directed stay of arrest and granted them protection. However, the High Court recorded two conditions which are in paragraphs 4 and 7 of the order on the Criminal Miscellaneous Writ Petition. The appellants are aggrieved by these two conditions and that is why they have filed

this appeal by special leave.

5. We have heard the learned counsel for the parties concerned. Both the husband and wife (appellant Nos.1 & 2 herein) are present in Court. On our query, they have informed us that they have married voluntarily and without any coercion. They are adults. Appellant No.2 is a graduate in Political Science. The husband - appellant No.1 has passed Engineering Examination and recently he has got a job earning Rs.7,000/- per month. This being so, counsel for the appellants assures us that appellant No.1 will take good care of the second appellant – his wife.

6. In our view, therefore, there is no need for appellant No.1 to arrange to deposit Rs.2,50,000/- for his wife in a bank as provided in paragraph 7 of the impugned order. Similarly, there is no need for recording the statement of the second appellant under Section 161 Cr.P.C. before the Chief Judicial Magistrate as directed in paragraph 4 of the impugned order. We, therefore, allow this appeal and set aside the order passed by the High Court to the extent mentioned in these two paragraphs.

7. The complaint filed by respondent No.3 against appellant No.1 also does not require to be retained any more. It is a complaint alleging the kidnapping of appellant No.2 by appellant No.1. From the facts of this case, it is clear that the second appellant had gone over to the first appellant on her own and they are married, and are now living together happily. Under the circumstances, the complaint filed by respondent No.3, bearing Crime No.684 of 2012 at Meerut, is hereby quashed. The consequences thereof will follow.

8. Counsel for respondent No.3 states that the second appellant should come and meet respondent No.3 and his relatives. Counsel for the appellants states that both the appellants will happily meet respondent No.3 and his relatives on appropriate occasions. The appeal is allowed accordingly.

.....J (H.L. GOKHALE)J (J. CHELAMESWAR) New Delhi;

August 2, 2013.