

POOJA RANA  
v.  
STATE OF HARYANA & ORS.  
(Writ Petition (Crl.) No.109 of 2012)

AUGUST 27, 2012

[DR. B.S. CHAUHAN AND  
JAGDISH SINGH KHEHAR, JJ.]

*Constitution of India, 1950 - Article 32 - Writ petition - Petitioner had married a person out of her free will - However, her parents and maternal uncle had registered a criminal case against her husband - Prayer of petitioner for quashing FIR against petitioner's husband and for further direction to the State Authorities to register criminal case against her parents and maternal uncle - FIR sought to be quashed not placed on record - The person to be granted protection i.e. petitioner's husband as well as the complainants i.e. the petitioner's parents and maternal uncle also not impleaded in the writ petition - Maintainability of the writ petition - Held: It is not the case of the petitioner that she had made any attempt to get the copy of the FIR and it was not made available to her - Nor there is any statement in her petition that she tried to lodge FIR against her parents and uncle but it was not accepted - Counsel for the petitioner failed to explain as why the necessary parties i.e. the complainants as well as the person for whom the protection is sought have not been impleaded - Approach of the petitioner's counsel was casual - The petition is therefore liable to be dismissed - However, in facts and circumstances of the case, the petitioner, if so advised, may move the High Court for appropriate relief by filing appropriate petition - Penal Code, 1860 - ss.363, 366, 328 and 504.*

*Surinder Singh v. Central Government & Ors. AIR 1986*

- A SC 2166: 1986 (3) SCR 946 and *Re: Sanjiv Datta* (1995) 3 SCC 619: 1995 (3) SCR 450 - relied on.

**Case Law Reference:**

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|---|------------------|-----------|--------|
| B | 1986 (3) SCR 946 | relied on | Para 5 |
|   | 1995 (3) SCR 450 | relied on | Para 7 |

CRIMINAL ORIGINAL JURISDICTION : Writ Petition (Crl.)  
No. 109 of 2012.

- C Under Article 32 of the Constitution of India.

Vivek Gupta for the Petitioner.

The following order of the Court was delivered

- D ORDER

E 1. This petition has been filed for quashing the First Information Report No. 609 of 2012 under Sections 363, 366, 328 and 504 of Indian Penal Code, 1860 (hereinafter called 'IPC') registered at Police Station Hissar, (City) Haryana and for further direction to the State Authorities to register the criminal case against the petitioner's father, mother and maternal uncle.

F 2. The writ petition has been filed alleging that the petitioner was born on 2.9.1993, thus she was major and has a right to choose a person with whom she wants to settle in her life. Petitioner married one Sachin Kumar Rana, resident of Sambhal, Moradabad, (U.P.) of her free will. However, her parents and maternal uncle had registered a criminal case against her husband and they are harassing him. Thus, the  
G petition has been filed for the aforesaid reliefs.

H 3. The matter was heard at length on 24.8.2012 and Mr. Gaurav Kumar Bansal, learned counsel appearing for the petitioner was asked to explain as under what circumstances

such a writ petition can be entertained as it suffers from following basic defects: A

(i) The FIR sought to be quashed has not been placed on record.

(ii) The person who is to be granted protection i.e. Shri Sachin Kumar Rana is not a party as either petitioner or the respondent. B

(iii) The complainant-persons who are harassing the petitioner's husband Sachin Kumar Rana, namely Ashok Bansal-father, Sunita Bansal-mother and Subhash Gupta-maternal uncle are not the parties before us. C

4. As learned counsel for the petitioner was not able to provide proper assistance, we adjourned the case for today and also requested the learned Advocate-on-record who has signed the petition to remain present in the court so that he can explain as to whether such a petition is maintainable or ought to have been filed. D

5. In *Surinder Singh v. Central Government & Ors.*, AIR 1986 SC 2166, this Court dealt with an issue for quashing of order which had not been made part of the record and observed as under: E

".....In the absence of the impugned order it would not be possible to ascertain the reasons which may have impelled the authority to pass the order. It is therefore improper to quash an order which is not produced before the High Court in a proceeding under Art. 226 of the Constitution. The order of the High Court could be set aside for this reason..." F G

6. It is not the case of the petitioner that she had made any attempt to get the copy of the FIR and it was not made available to her. Nor there is any statement in her petition that she tried to lodge the FIR against her parents and uncle but it H

A was not accepted. Learned counsel for the petitioner failed to explain as why the necessary parties, i.e. the complainants as well as the person for whom the protection is sought have not been impleaded.

B 7. While dealing with a similar situation, this Court in *Re: Sanjiv Datta*, (1995) 3 SCC 619, held as under:

C ".....Some members of the profession have been adopting perceptibly casual approach to the practice of the profession as is evident from their absence *when the matters are called out, the filing of incomplete and inaccurate pleadings - many times even illegible and without personal check and verification, the non-payment* of court fees and process fees, the failure to remove office objections, the failure to take steps to serve the parties, D et al. They do not realise the seriousness of these acts and omissions. *They not only amount to the contempt of the court but do positive disservice to the litigants and create embarrassing situation in the court leading to avoidable unpleasantness and delay in the disposal of matters. This augurs ill for the health of our judicial system.....The lawyers took their profession seriously and practised it with dignity, deference and devotion. If the profession is to survive, the judicial system has to be vitalised. No service will be too small in making the system efficient, effective and credible...."* (Emphasis added)

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G 8. In view of the above, we are of the opinion that such a petition does not deserve to be entertained. It is accordingly dismissed. However, in the facts and circumstances of the case, the petitioner, if so advised, may move the High Court for appropriate relief by filing appropriate petition.

B.B.B.

Writ Petition dismissed.