

(2010) 01 AHC CK 0274**Allahabad High Court****Case No:** Criminal M.W.P. No 13608 of 2008

Veer Bahadur and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: Jan. 13, 2010**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 98
- Penal Code, 1860 (IPC) - Section 363, 366

Citation: (2010) 1 ACR 981**Hon'ble Judges:** Subhash Chandra Agarwal, J; R.K. Agarwal, J**Bench:** Division Bench**Advocate:** Deepak Kaushik, for the Appellant; Sudhir Mehrotra, A.G.A., for the Respondent**Final Decision:** Allowed**Judgement**

@JUDGMENTTAG-ORDER

R.K. Agrawal and Subhash Chandra Agarwal, JJ.

By means of this writ petition, the Petitioners have prayed for a writ, order or direction in the nature of certiorari quashing the first information report dated 6.7.2008 in Case Crime No. 1282 of 2008 under Sections 363 and 366, I.P.C., P.S. Civil Lines, district Muzaffarnagar.

2. Heard Sri. Deepak Kaushik, the learned Counsel for the Petitioners and Sri. Sudhir Mehrotra, learned A.G.A. for the Respondents No. 1, 2 and 3.
3. Learned Counsel for the Petitioners submitted that the Petitioner No. 1 Veer Bahadur fell in love with Petitioner No. 2 Manju. Learned Counsel further submitted that Petitioner No. 2 is major and left her house for marriage voluntarily, but the brother of Petitioner No. 2 lodged the first information report dated 6.7.2008 against Petitioner No. 1 alleging therein that the Petitioner No. 1 kidnapped his

sister Manju aged 16 years. It was further submitted that the age of the Petitioner No. 2 was 22 years and she married with the Petitioner No. 1 out of her own sweet-will, no offence under Sections 363 and 366, I.P.C. is made out and the first information report is liable to be quashed.

4. Initially the petition was filed by Veer Bahadur, Petitioner No. 1 but with the permission of the Court, vide order dated 22.9.2008, the alleged kidnappee Manju was impleaded as Petitioner No. 2. On 22.9.2008, the following order was passed by a Division Bench consisting of Hon'ble Yatindra Singh, J. and Hon'ble K.N. Ojha, J.:

There is no proof that Petitioner No. 2 is major. In these circumstances, it is appropriate that Petitioners may appear before the C.J.M., Muzaffarnagar before 31.10.2008. The C.J.M., Muzaffarnagar may get the Petitioner No. 2 medically examined and thereafter record the statement of Petitioner No. 2 and send the same to this Court. In case the girl is found to be minor after medical examination, the C.J.M. will be at liberty to pass suitable order u/s 98, Code of Criminal Procedure regarding interim custody of the girl.

Till the C.J.M. passes appropriate legal order after getting the medical report, the Petitioners will not be arrested in the aforementioned case crime. It is made clear that if the Petitioners do not appear before the C.J.M., Muzaffarnagar before 31.10.2008, the interim order will stand automatically vacated.

5. In compliance of the order dated 22.9.2008, the Petitioner No. 2 Smt. Manju appeared before the C.J.M., Muzaffarnagar. Her statement on oath was recorded by C.J.M., Muzaffarnagar on 6.11.2008 and she was sent for medical examination by C.M.O., Muzaffarnagar to ascertain her age.

6. C.M.O., Muzaffarnagar vide his report dated 31.10.2008 found the age of Petitioner No. 2 to be about 20 years. The Petitioner No. 2 Manju deposed before C.J.M., Muzaffarnagar that she went away with Veer Bahadur out of her own sweet-will and married him at Panipat. She further stated that she was not under pressure of any person.

7. The original statement of Smt. Manju and the certificate issued by C.M.O., Muzaffarnagar has been forwarded to this Court by C.J.M., Muzaffarnagar vide his letter No. 341 dated 7.11.2008.

8. On the basis of certificate issued by the C.M.O., Muzaffarnagar, it is evident that the age of Petitioner No. 2 was about 20 years in October, 2008 and accordingly she was major on the date of the alleged offence. The Petitioner No. 2 stated before the C.J.M., Muzaffarnagar that she went away with Petitioner No. 1 and married him out of her own sweet-will without any pressure. It is thus a clear case of love-marriage and Petitioner No. 2 Smt. Manju was not kidnapped or abducted by the Petitioner No. 1.

9. We are satisfied that no criminal offence was committed by the Petitioner No. 1 and the first information report lodged by Gulshan, the brother of Petitioner No. 2 is an abuse of process of law and is liable to be quashed.

10. The petition is allowed.

11. The first information report dated 6.7.2008 in Case Crime No. 1282 of 2008 under Sections 363 and 366, I.P.C., P.S. Civil Lines, district Muzaffarnagar and all proceedings connected therewith are quashed.