



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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1. CRM-M-50761-2018 (O&M)

Manmohan Kumar and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

2. CRM-M-12239-2022 (O&M)

Shiva Bains @ Shiva

..... Petitioner

Versus

State of Punjab and another

..... Respondents

Date of decision: 29.05.2024

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

PRESENT: Mr. Ravi Malhotra, Advocate
for the petitioners (in CRM-M-50761-2018).

Mr. Mohd. Salim, Advocate
for the petitioner (in CRM-M-12239-2022).

Ms. Aakanksha Gupta, AAG, Punjab.

Ms. Amarjeet Kaur, Advocate
for respondents No. 2 and 3 (in CRM-M-50761-2018).

Mr. Mohd. Zeeshan Khan, Advocate for
Mr. Avninder Singh, Advocate
for respondent No. 2 (in CRM-M-12239-2022)

NIDHI GUPTA, J. (ORAL)

1. This order shall dispose of two aforementioned quashing
petitions as the same have arisen from a common FIR.



2. Prayer in these petitions both filed under Section 482 Cr.P.C. is for quashing of FIR No. 297 dated 15.09.2017 [Annexure P-1 (in CRM-M-50761-2018) and Annexure P-5 (in CRM-M-12239-2022)] registered under Sections 376-D, 376, 506, 342 and 294 IPC and Sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Salem Tabri, District Police Commissionerate, Ludhiana and all the consequential proceedings arising therefrom, including the order dated 14.02.2020 (Annexure P-6 in CRM-M-12239-2022) vide which petitioner Shiva Bains @ Shiva, was declared as proclaimed person.

Pursuant to the common order dated 07.02.2024 passed by this Court in both the cases, the parties have appeared before the learned Additional District and Sessions Judge, Ludhiana, to get their statements recorded. Learned Additional District and Sessions Judge, Ludhiana, has submitted her consolidated report along with statements of the parties vide letter dated 13.05.2024 (appended with CRM-M-12239-2022) duly forwarded by the learned District and Sessions Judge, Ludhiana.

A perusal of the above said report would show that the petitioner(s) in both the cases; respondent No. 2-victim; and her mother have appeared and suffered statements with respect to the compromise which have been found to be genuine, voluntary and without any coercion and undue influence.

Learned counsel for the petitioner(s), *inter alia*, submits that the petitioner-Shiva Bains alias Shiva (in CRM-M-12239-2022) and the victim/respondent No.2 herein were in a consensual relationship. At the time of the incident she was about 17 years of age and thereafter the petitioner-Shiva Bains alias Shiva (in CRM-M-12239-2022) and the



victim/respondent No.2 have even entered into marriage on 21.7.2018 and out of the said wedlock, victim/respondent No.2 has given birth to a baby girl in the year 2019. It is submitted that the matter has been compromised between the petitioner and the victim/respondent No.2 and to that effect the Compromise Deed dated 24.12.2021 (already annexed as Annexure P-7 in CRM-M-12239-2022) is placed on record. The compromise effected between the parties i.e. petitioners Manmohan Kumar and Rohit Barootage in CRM-M-50761-2018 [who were associates of the petitioner-Shiva Bains @ Shiva in CRM-M-12239-2022] and the complainant-Narinder Kumar/father of the victim in CRM-M-50761-2018, in the shape of affidavit dated 31.8.2018 is annexed as Annexure P-2. Learned counsel for the petitioner-Shiva Bains @ Shiva refers to order dated 05.4.2023 (Annexure P-9 in CRM-M-12239-2022) and submits that in compliance of the order dated 27.3.2023 passed by a co-ordinate Bench this Court, the petitioner surrendered before the trial Court and granted bail and hence, he is no more proclaimed person in this matter. It is submitted that statement of respondent No. 3/father of the victim (respondent No. 3 in CRM-M-50761-2018) could not be recorded as he is confined in jail, however, statement of the mother of the victim qua compromise has been recorded by the learned trial Court.

In support, learned counsel for the petitioner(s) have relied upon a judgment dated 02.06.2022 of this Court in **CRM-M-9543-2021** titled as '**Gurdeep Singh vs. State of Punjab and another**', wherein it has been held as under:-

“xxxx

In the instant case, the respondent no.2, who has already attained the age of majority, has solemnized



marriage with the petitioner and the couple is stated to be residing happily with each other and a male child has also been born from the wedlock.

In such circumstances, the possibility of conviction also become remote and bleak and continuation of criminal case will cause injustice not only to the petitioner but also to respondent No.2, who is now legally wedded wife of the petitioner.

As such, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 of the Code, so as to secure the ends of justice in the light of amicable settlement having been effected between the parties. In such a situation, continuation of the prosecution would result in sheer abuse of process of law. In the event, the FIR is quashed, it will be for the welfare of the parties and would also tend to strengthen the healthy matrimonial relationship between the petitioner and respondent No.2 as husband and wife.

*For the aforesaid view, this Court finds support from **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, upheld by Hon'ble Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303** and **Narinder Singh and others Vs. State of Punjab and another 2014(6) SCC 466**.*

*Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No. 16, dated 28.01.2020, under Section 376 (2) (n) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children From Sexual Offences Act, 2012, registered at Police Station City-I, Sangrur, District Sangrur and all the consequential proceedings arising therefrom, are ordered to be quashed, however, qua the petitioner only.
xxxx.”*

Learned State counsel has stated that he has ‘no objection’ in case the FIR is quashed on the basis of compromise qua the petitioners. This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned Additional District and Sessions Judge, Ludhiana, this Court finds that the matter has been amicably settled between the parties; and petitioner-Shiva Bains @ Shiva (in CRM-M-12239-2022) and the victim/respondent No. 2 have



solemnized marriage. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

As per the Full Bench judgment of this Court in ***“Kulwinder Singh and others Vs State of Punjab”, 2007 (3) RCR (Criminal) 1052***, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the proceedings where the High Court is of the opinion that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone. Hon'ble Apex Court in the case of ***“Gian Singh Vs. State of Punjab and another”, 2012 (4) RCR (Criminal) 543***, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment is reproduced here-in-below:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.”

In view of what has been discussed here-in-above, both the petitions are allowed and FIR No. 297 dated 15.09.2017 [Annexure P-1



(in CRM-M-50761-2018) and Annexure P-4 (in CRM-M-12239-2022)] registered under Sections 376-D, 376, 506, 342 and 294 IPC and Sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Salem Tabri, District Police Commissionerate, Ludhiana and all the consequential proceedings arising therefrom, including the order dated 14.02.2020 (Annexure P-6 in CRM-M-12239-2022) vide which petitioner Shiva Bains @ Shiva, was declared as proclaimed person, are ordered to be quashed on the basis of compromise, qua the petitioner(s) only.

Pending application(s), if any, shall also stand disposed of (in both the cases).

29.05.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No