

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-13736 of 2015

Date of Decision: 30.4.2015

Jasbir Singh alias Babbu

... Petitioner(s)

Versus

State of Punjab and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

Present: Ms. Gursharan K. Mann, Advocate
for the petitioner(s).

Darshan Singh, J.

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") for quashing of FIR No. 156 dated 7.7.2014, registered under Section 376 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") at Police Station Ajnala, District Amritsar (Rural) along with all the consequential proceedings arising therefrom.

2. As per the averments made in the petition, no offence under Section 376 IPC is made out and it was a case of consent. The petitioner could not marry the prosecutrix as they belong to the same village and the whole village community was against their relationship due to the honour of the families. It is also alleged that now the parties have settled their dispute amicably in the interest of peace and harmony out of their free will and without any pressure or coercion from any quarter. The copy of the compromise deed and affidavit sworn by the prosecutrix have been annexed as Annexures P2 & P3, respectively.

Hence, this petition.

3. Learned counsel for the petitioner pleaded that it was a consensual affair between the petitioner and the prosecutrix. He could not marry the prosecutrix due to opposition by the village community. So, no offence punishable under Section 376 IPC is made out against the petitioner. She further contended that the allegations regarding forcible rape in the FIR has only been mentioned to get the case registered. She further contended that moreover, now the parties have settled their dispute and a compromise has been effected. The written compromise and the affidavit of the prosecutrix are Annexures P2 & P3, respectively. The continuation of the proceedings will be an abuse of the process of law. In order to maintain the peace and harmony between the parties by using inherent powers, the Court should quash the proceedings.

4. I have duly considered the aforesaid contentions.

5. As per the prosecution allegations, the petitioner and the prosecutrix were having the friendship for the last five years. They have taken oath to marry. The petitioner had been maintaining the physical relations with the prosecutrix on the pretext of marriage. It has been further categorically mentioned in the FIR lodged on the statement of the prosecutrix that on 20.6.2014, she was alone in her house. The petitioner came to their house at about 12.00 noon and asked to have physical relation. She refused and stated that whatever has happened had happened. Now, they will have such relations only after the marriage. On her refusal, the petitioner forcibly committed rape upon

her. Thus, in the FIR, there are clear allegations that the petitioner has forcibly committed rape upon her. As per the law laid down by the Hon'ble Supreme Court in case ***State of Haryana and Others v. Ch. Bhajan Lal and Others 1991(1) R.R.C.(Criminal) 383***, the powers under Section 482 Cr.P.C. can only be exercised where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. But that is not the position in the case in hand as there are clear allegations of rape against the petitioner in the FIR.

6. Learned counsel for the petitioner has raised a plea for quashing of the FIR and the consequential proceedings on the basis of compromise between the parties. The copy of the written compromise (Annexure P2) and the affidavit of the prosecutrix (Annexure P3) have been placed on the record. In case ***Narinder Singh & Others v. State of Punjab & Another 2014(2) R.C.R.(Criminal) 482***, the Hon'ble Apex Court has categorically laid down that the powers of quashing are not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society.

7. In view of the aforesaid ratio of law, even on the basis of compromise, the powers under Section 428 Cr.P.C. cannot be exercised in favour of the petitioner.

8. Consequently, the present petition is without any substance and is hereby dismissed, in limine.

(Darshan Singh)
Judge

April 30, 2015
“DK”