

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Date of decision: 29.10.2015

Alu and others

.....Petitioners

v.

State of Punjab and another

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.JS Thind, Advocate for the petitioners
Mr.Kirat Singh Sidhu, Deputy Advocate General
for State of Punjab
Mr.Vishal Goyal, Advocate for the complainant.

Jaswant Singh, J.(Oral)

Petitioner no.4-accused Saifu and the prosecutrix-respondent no.2(Seeso) have performed their Nikah ceremony on 25.2.2015 as per document Annexure P-10. He alongwith his three other accused friends have filed the present petition under Section 482 Cr.PC for quashing of FIR No.18 dated 21.1.2015 under Sections 376/120-B IPC, PS Sadar Tarn Taran and all consequential proceedings arising therefrom on the basis of compromise.

As per allegations complainant-Seeso claiming herself to be 17 years of age lodged the aforesaid FIR with the allegations that on the intervening night of 19/20.1.2015 she was abducted and raped by Sheeka and Manu. In view of subsequent Nikah a compromise has been effected and statement of complainant under Section 164 Cr.PC has

been recorded wherein she deposed that no rape upon her was committed.

Vide order dated 1.7.2015 parties were directed to get their statements recorded with regard to genuineness of the compromise.

Now learned Additional Chief Judicial Magistrate, Tarn Taran vide his report dated 24.7.2015 (taken on record as Mark-A) has reported that the parties have voluntarily entered into the compromise which appears to be genuine. It is further reported that the complainant and accused Saifu have solemnized marriage and are happily residing.

Learned State counsel on instructions from ASI Charanjit Singh submits that matter is still under investigation.

Hon'ble Supreme Court in **(2003)4 SCC 675, B.S.Joshi and others v State of Haryana and another** has made it explicitly clear in para 15 of its judgment that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or effect the powers under Section 482 of the Code.

A Full Bench of this Court in **Kulwinder Singh and others v State of Punjab and another, 2007(3)RCR(Criminal) 1052** has held that this Court, in appropriate cases, while exercising powers under Section 482 Cr.P.C., may quash an FIR disclosing the commission of non-compoundable offences. The relevant extract reads as under:-

“The only inevitable conclusion from the above discussion is

RAJINDER PRASHAD JOSHI
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High Court, Chandigarh.

that there is no statutory bar under the Cr.P.C., which can affect the inherent power of this Court under Section 482.

Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.”

Hon'ble Apex Court in another case in **J.T.2008(9) SC 192 Nikhil Merchant v Central Bureau of Investigation and Another** while relying upon its decision in **B.S.Joshi's** case (supra) has also held that in view of the compromise arrived at between the parties, the technicalities should not be allowed to stand in the way in the quashing of criminal proceedings and the continuance of the same after compromise between the parties would be a futile exercise.

Similar views were expressed by Hon'ble the Apex Court in **Madan Mohan Abot v State of Punjab, 2008(4) SCC 582**, the relevant extract of which is as under:-

“We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and

meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

Keeping in view the above settled legal position and taking into account the fact that both the parties have desired to live in peace and harmony and carry on with their lives without any ill will or rancour by resolving their differences and entering into the aforesaid compromise, it is evident that it is a fit case where there is no impediment in the way of the Court to exercise its inherent powers under Section 482 Cr.P.C., for quashing of the FIR in the interest of justice.

In view of the parties have performed their marriage, the present petition is allowed and FIR No.18 dated 21.1.2015 under Sections 376/120-B IPC, PS Sadar Tarn Taran and all consequential proceedings arising therefrom , are quashed.

29.10.2015.
joshi

(Jaswant Singh)
Judge