

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

Cr. Misc. M 28861 of 2015
Date of decision:- 31.8.2015

Yashpal

Petitioner

vs.

State of Haryana and anr

Respondent

Present: Mr. SS Dhaliwal, Advocate for
Mr. HS Brar, Advocate.

M.M.S.BEDI,J.

The petitioner is facing trial in a case u/s 506 IPC registered on the basis of complaint filed by complainant Sheetal Yadav alleging that she had been threatened on 4.11.2014 by the petitioner when she had complained about his maintaining physical relations with her with a false promise to marry her. Another FIR has been registered at the instance of the same complainant on 17.3.2015 (Annexure P-1) on the allegation that the petitioner had been sexually exploiting her for the last six years with a false promise of marriage. It is mentioned in the said FIR that she had earlier filed a complaint in Police Station Narnaul on 14.11.2014, in which the matter was compromised wrongly. The trial court in the FIR, after commitment of the case, has framed charges against the petitioner vide Annexure P-8 u/s 376 IPC.

Counsel for the petitioner has sought quashing of the FIR as well as the charge u/s 376 IPC on the ground, that pertaining to the same incident and same information, one FIR stands already registered, as such, the second FIR (annexure P-1) deserves to be quashed along with all the criminal proceedings emanating therefrom.

The first FIR had been registered u/s 506 IPC, whereas the second FIR has been registered u/s 376 IPC on the ground that the matter in the first FIR has been wrongly compromised.

Counsel for the petitioner has relied upon on **Kishan Singh (dead) through L.Rs. vs. Gurpal Singh and ors 2010(3) SCC (Cri.) 1091** and **State of Haryanas and ors vs. Bhajan Lal and others 1991(1) RCR (Criminal) 383.**

I have heard counsel for the petitioner and carefully gone through the contents of the FIR (Annexure P-1), which has been sought to be quashed. The circumstances under which the petitioner is alleged to have committed offence u/s 376 IPC have been considered by the trial court while framing charges against him. The manner in which the petitioner had obtained the consent of the complainant without being married to her and she having surrendered believing to be lawfully married to the petitioner, offence u/s 375 IPC is prima facie made out. It will not be appropriate at this stage to determine the culpability of the petitioner on merits. So far as first FIR (Annexure P-6) is concerned, the said FIR has been registered u/s 506 IPC and was later on compromised. The circumstance of lodging the second FIR has been explained.

Counsel for the petitioner submits that it is wrongly mentioned in the second FIR that the first FIR had been compromised. The petitioner cannot take advantage of the leniency having been shown by the complainant while the first FIR was registered. The provisions of Section 300 Cr.P.C. would not come into operation in the present case, barring the lodging of the second FIR (Annexure P-1). It does not appear to be a case where regarding the same criminal act two FIRs have been registered. The first FIR is apparently registered on the basis of different act attributed to

the petitioner. No doubt, there are allegations of sexual exploitation in the first FIR also but the complainant having specifically mentioned that she had compromised the matter on the false assurance of the petitioner, the judgment in **T.T.Antony vs. State of Kerala & ors 2001 AIR (SC) 2637** will not be applicable to the facts of the present case. No ground is made out for quashing of the FIR.

Dismissed without prejudice to the rights of the petitioner to raise all the arguments at the time of trial.

August 31 ,2015
TSM

(M.M.S.BEDI)
JUDGE