

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

CRM-M-30559 of 2014
Date of decision : 25.08.2015

Gurpreet Singh @ Kala

...Petitioner

Versus

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ramesh Sharma, Advocate for the petitioner

Mr. Mehardeep Singh, DAG, Punjab

Mr. R. S. Miglani, Advocate for the respondent No.2

JITENDRA CHAUHAN, J. (Oral)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of FIR No.62 dated 15.07.2014 under Sections 376, 417, 309 and 109 of the Indian Penal Code (for short 'the IPC') registered at Police Station Bholath, District Kapurthala and all consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2) arrived at between the parties.

Reply on behalf of respondent No.1 has been filed in the Court, is taken on record.

The learned counsel for the petitioner contends that initially the FIR has been registered under Sections 376, 417, 309 and 109 IPC, however, the challan has been filed under Sections 417, 309 and 109 IPC. He further contends that the prosecutrix and the petitioner

known to each other and has solemnized marriage on 19.09.2014 and they are blessed with a child. The fact of marriage is not disputed by the learned counsel for the respondent No.2.

On the other hand, the learned State counsel on instructions submits that the parties have solemnised marriage and the respondent No.2 is residing at the matrimonial home and she is blessed with a child. He further states that the petitioner is not involved in any other FIR.

Hon'ble Supreme Court in ***Gian Singh Vs. State of Punjab and another, 2012(4) RCR (Criminal) 543***, has observed as under:-

“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 what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature

and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it

would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Heard.

Keeping in view the fact that the petitioner as well as the respondent No.2-complainant are residing together as husband and wife; out of their wedlock a child is born; the petitioner is not involved in any other FIR, the cause of justice would be better served and the interest of the parties, particularly the young child, would be better looked after as this Court feels that the prayer made by the petitioner is accepted.

Accordingly, the present petition is allowed. FIR No.62 dated 15.07.2014 under Sections 376, 417, 309 and 109 IPC registered at Police Station Bholath, District Kapurthala and all consequential proceedings arising therefrom are hereby quashed qua the present petitioner(s).

25.08.2015

ashok

**(JITENDRA CHAUHAN)
JUDGE**

whether referred to reporter? Yes/No.