

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRM-M-34103-2013

Date of decision : 23.01.2015

Sandeep Sharma @ Bharti

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Swaran Tiwana, Advocate
for the petitioner.

Mr.Ankur Jain, AAG, Punjab.

Mr.Amninder Preet, Advocate
for respondent No.2.

REKHA MITTAL, J.

Sandeep Sharma @ Bharti, the accused in FIR No.24 dated 23.05.2011 has invoked the provisions of Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') seeking quashing of aforesaid FIR registered against him at the behest of Manjit Kaur-respondent No.2 for offence punishable under Sections 376, 306, 511, 420 of the Indian Penal Code (in short 'IPC').

Counsel for the petitioner contends that dispute between the petitioner and respondent No.2 has been settled by way of compromise as they have performed marriage in accordance with law and out of their wedlock, one male child has been born. The petitioner and respondent No.2 performed marriage on 06.06.2011 which was got registered on 13.06.2011.

The parties reduced the terms and conditions of compromise on 14.07.2011. After performance of marriage, the petitioner and respondent No.2 submitted their duly sworn affidavit to the police authorities and thereafter appeared before the Lok Adalat on 15.12.2012 and got recorded their statements. The statements of the parties have been recorded by the Judicial Magistrate Ist Class, Patiala in pursuance of the directions issued by this Court vide order dated December 01, 2014 and a report has been submitted by the said Court that the parties have voluntarily without any duress, coercion etc. have made their statements that they have compromised the dispute vide compromise Ex.C1 and C2 as they have performed marriage and are leading a happy married life.

Counsel for the State and counsel for the private respondent-complainant have not disputed that dispute between the parties has been settled, they have performed marriage in June, 2011 and out of their wedlock, a child was born on 04.09.2013. They have further submitted that in view of the developments which took place subsequent to registration of FIR and in the interest of marital harmony between the petitioner and respondent No.2, it would be in the interest of justice to quash the criminal proceedings irrespective of the fact that offence under Section 376 IPC is grave in nature and cannot be allowed to be quashed on the basis of compromise in ordinary circumstances.

I have heard counsel for the parties and perused the records.

Before advertng to the submissions made by counsel for the parties, it is pertinent to mention that Hon'ble the Supreme Court of India in

Gian Singh Vs. State of Punjab, 2012(4) RCR (Criminal) 543 while

dealing with jurisdiction of the High Courts to quash the criminal proceedings in non compoundable offences on the basis of compromise in exercise of powers under Section 482 Cr.P.C. has struck a word of caution that such a power should not be exercised by the Court in serious offences like murder, rape, dacoity etc. or other offences of mental depravity under the Indian Penal Code or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by a public servant while working in that capacity as the settlement between the offender and victim can have no legal sanction at all.

The question which invites answer is, whether the petition can be dismissed merely because the petitioner has been booked for committing offence punishable under Section 376 IPC irrespective of nature of allegations, age of the prosecutrix and subsequent developments highlighted by counsel for the parties.

Manjit Kaur @ Dimpy, aged about 28 years lodged the FIR on the allegations that she developed intimacy with the petitioner as she had been going to him as the was petitioner working as Palmist. The petitioner and respondent developed physical relations and according to the complainant, the petitioner misrepresented to her that he would perform marriage with her. Later, he refused to perform marriage and left the petitioner totally disgusted and dejected compelling her to take an extreme step to commit suicide and as a result she jumped in a canal but was saved due to timely intervention of a rescuer.

Perusal of the FIR would make it evident that main grievance of the complainant was that the petitioner did not perform marriage with her

who had developed physical relations on a false promise that they would perform marriage. It appears to the Court that immediately after lodging of criminal proceedings, good sense prevailed upon the petitioner to prove himself true to his promise made to the victim and the parties performed marriage in June 2011 and out of their wedlock, a child has been born. There is no contest between the parties that they are leading a happy married life along with their child. That being so, if the criminal proceedings are not put to an end, it may result in marital disharmony which is not in the interest of society and so also the parties and the minor child born out of their wedlock.

Looked from another angle, as respondent No.2-prosecutrix has performed marriage with the petitioner, there is no possibility of her supporting the charge in case the petitioner is put to trial. In the circumstances, I am of the considered opinion that continuation of the criminal proceedings would be nothing but a mockery in which the wife would be called in the witness box to depose against her husband but in all probability, she would give a statement in his favour. Hence, there is a remote and bleak rather no possibility of the trial culminating in the judgment of conviction even if allowed to proceed with. In this context, reference can be made to the judgment of this Court *Yogesh Handa Vs. State of Punjab and another, 2013(4) RCR (Criminal) 472*.

In view of the above, I have no hesitation to conclude that continuation of the criminal proceedings would be counter productive and may boomerang to unsettle what has been settled between the parties by way of compromise thereby grievance expressed by the complainant-

respondent No.2 in the FIR has been duly redressed.

For the reasons aforesaid, this Court has no hesitation to conclude that continuation of the criminal proceedings would be sheer abuse of process of law at the cost of wastage of precious time of the Court and the parties and as such, the petition is allowed, FIR No.24 dated 23.05.2011 for offence punishable under Sections 376, 306, 511, 420 IPC registered in Police Station Pasiana, District Patiala and proceedings emanating therefrom are ordered to be quashed.

(REKHA MITTAL)
JUDGE

January 23, 2015.
DK