

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM No.M-35765 of 2015****Date of Decision: October 16, 2015**

Kulwinder Singh and others

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGHPresent: Mr.Ashok Kumar Sama, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of FIR No.103 dated 17.07.2015 under Sections 363, 366A and 376 IPC registered at Police Station Sadar Jalalabad, District Fazilka and all consequential proceedings arising therefrom, on account of compromise arrived at between the parties with mutual consent.

At the time of arguments, learned counsel for the petitioners argued that it is a run away couple case and the parties have compromise the matter and protection has already been obtained from this Court. Therefore, he argued that as the parties have effected compromise, therefore, the FIR in question should be quashed.

I have heard learned counsel for the petitioners and have

gone through the record.

From the record, I find that in the present case, FIR has been registered on the statement of prosecutrix, who was stated to be aged about 17 years, on 17.07.2015 under Sections 363, 366A and 376 IPC at police station Sadar Jalalabad, District Fazilka. The prosecutrix levelled the allegations of rape and kidnapping against the main accused Kulwinder Singh that she was kidnapped/abducted by the accused at night time and he committed rape upon her. When the FIR was registered and the matter was under investigation, then after more than two months of registration of the FIR, a petition (CRM No.M-33565 of 2015) seeking protection was filed before this Court, alleging marriage between the prosecutrix and accused Kulwinder Singh, which was disposed of on 30.09.2015.

From the facts, it is clear that after the commission of heinous crime of rape, the accused is alleging that he has performed marriage with the prosecutrix and they are living as husband and wife. As offence has already been committed and the FIR has been registered on the statement of the prosecutrix, therefore, afterwards, there is no question of compromise between the prosecutrix and the accused and it looks that the petition seeking protection was filed only to create evidence regarding compromise. It has been held by the Hon'ble Supreme Court in ***Gian Singh vs. State of Punjab and another, 2012(4) RCR (Criminal) 543***, that the FIR should not be quashed on the basis of the compromise in serious cases like murder, rape, dacoity etc.

Learned counsel for the petitioners cited judgment passed by this Court in ***Gurmukh Singh vs. State of Punjab and others, 2013(1) RCR (Criminal) 514***. I have gone through this cited judgment and the same having distinguished facts will not apply in the present case as in that case, FIR was not got registered by the prosecutrix and prosecutrix in her statement under Section 164 Cr.P.C. has stated that she is happily living with her husband Gurmukh Singh and it is also stated that prosecutrix fell in love with the accused, which are not the facts in the present case. Rather the prosecutrix herself got registered the FIR levelling allegations of rape by the petitioner. On the same point, learned counsel for the petitioners cited judgment passed by Hon'ble Delhi High Court in ***Rukshana and another vs. Govt. of NCT of Delhi and others, 2007(3) RCR (Criminal) 542***. In that case also, it was the case that prosecutrix fell in love with the accused and both ran away and married.

Learned counsel for the petitioners also relied upon the judgment passed by the Hon'ble Delhi High Court in ***Manish Singh vs. State Govt. of NCT and others, 2006(1) RCR (Criminal) 653***. I have gone through this cited judgment also and the same having distinguished facts will not apply in the present case as in that case also, the prosecutrix accompanied the boy of her own volition and enticement and married him and that was case of run away marriages. On the same point, learned counsel for the petitioners cited judgment passed by this Court in ***Kapil Dev vs. State of Haryana and others, 2011(1) RCR (Criminal) 376***, in which also, the

FIR was got registered by father. On the similar facts, learned counsel for the petitioners relied upon the judgment passed by this Court in ***Goldi @ Kulvinder vs. State of Haryana and others, 2010 (1) RCR (Criminal) 371***. I have gone through all the above-cited judgments and the same having distinguished facts will not apply in the present case.

Keeping in view the above discussion and in view of the nature and gravity of the offence, I do not find any ground to quash the FIR in the present case.

Therefore, finding no merit in the present petition, the same is dismissed.

October 16, 2015
Vgulati

(INDERJIT SINGH)
JUDGE