

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-18653 of 2015
DATE OF DECISION: 05.05.2016

Noor Hassan

.....Petitioner

Versus

State of Punjab and another

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper may be allowed to see judgment? (Yes/No)**
2. **To be referred to reporters or not? (Yes/No)**
3. **Whether the judgment should be reported in the Digest? (Yes/No)**

Present:- Mohd. Yousaf, Advocate
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

Mr. Rajender Kumar, Advocate
for respondent No.2.

DAYA CHAUDHARY, J.

As per case of complainant-respondent No.2, namely, Halima, she was earlier married and her husband died about three and a half years ago. She was having five minor children and her parents had already died. She was also not having any source of income. The petitioner and complainant-respondent No.2 were residing in the same area and both of them came into contact with each other. By considering the interest of the children, complainant-respondent No.2 agreed to marry the petitioner. The petitioner and complainant informed their relatives with regard to their decision about marriage but the same was not liked by them because both petitioner and complainant-respondent No.2 belong to some caste and religion. A pressure was put upon the complainant to lodge a false case against the petitioner and accordingly she submitted a complaint to the

police on the basis of which, FIR No. 26 dated 28.1.2015 under Section 376 IPC was registered against the petitioner at Police Station City Barnala, District Barnala. Subsequently, the complainant realized her mistake and ultimately the petitioner and complainant performed nikah at Barnala on 2.2.2015. Both the parties also approached this Court by way of filing Crl. Misc. No. M-18653 of 2015 for grant of protection, which was disposed of on 26.2.2015. The complainant also furnished her affidavit at the time of filing of anticipatory bail by the petitioner and by considering the copy of nikahanama and her affidavit, interim bail was granted to the petitioner on 27.3.2015, which was subsequently confirmed.

After performing nikah, the present petition has been filed for quashing of the aforesaid FIR on the basis of compromise as both the parties are happy in their matrimonial life.

Learned counsel for the petitioner contends that as per direction issued by this court on 22.1.2016, both the parties appeared before the Chief Judicial Magistrate, Barnala and their statements with regard to compromise were recorded. The complainant has stated in her statement that she is residing with the petitioner as wife and wants to lead a peaceful life. She has also stated that she has no objection in quashing of the FIR registered against the petitioner.

Learned counsel appearing for respondent No.2 has also not disputed the submissions made by learned counsel for the petitioner.

Heard the arguments advanced by learned counsel for the parties, have also perused the allegations in the FIR and other documents available on the file as well as the statements of the parties recorded as per direction issued by this court.

The fact of lodging of the FIR at the instance of complainant under pressure of relatives is not disputed. Subsequently on realizing her

mistake, a compromise was arrived at between them. Now both the parties are happy in their matrimonial life and this fact has specifically been stated in their statements recorded in compliance of direction issued by this Court. Although the FIR has been registered under Section 376 IPC but the relation between the parties was with consent and no rape was committed as has been admitted by the complainant. The FIR was registered due to pressure of her relatives but subsequently the matter has been compromised. A nikah was also performed between the parties and now they are residing happily in their matrimonial life as husband and wife and no grouse is there against each other.

By exercising the inherent powers of this Court under Section 482 Cr.P.C. and by considering the facts and circumstances of the case, it would be in the interest of both the parties to quash the criminal proceedings arising out of aforesaid FIR.

It has also been held by Five Judges' Bench of our own High Court in **Kulwinder Singh and others vs. State of Punjab and others, 2007(3) RCR (Criminal) 1052** that this Court has wide power to quash the criminal proceedings even in non-compoundable offences, notwithstanding the bar under Section 320 of the Criminal Procedure Code in order to prevent abuse of the process of law or to secure the ends of justice.

Accordingly, the present petition is allowed and the impugned criminal proceedings arising out of FIR No. 26 dated 28.1.2015 registered under Section 376 IPC at Police Station City Barnala, District Barnala as well as all subsequent proceedings arising therefrom qua petitioner, namely, Noor Hassan, are hereby quashed.

May 05, 2016
pooja

(DAYA CHAUDHARY)
JUDGE