

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

**Crl. Misc. No. M-23230 of 2016
Date of decision : 09.11.2016**

Gursahib Singh @ Sebi @ Gurnaib SinghPetitioner

versus

State of Punjab and ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioner

Mr. A.P.S. Gill, AAG, Punjab

RITU BAHRI, J.

Quashing of FIR No. 15 dated 10.02.2016 under Sections 363/376/506 IPC and Section 4 of POCSO Act, registered at Police Station Sadar Bathinda, District Bathinda, is being sought on the basis of compromise dated 29.05.2016 (Annexure P-2).

Respondent No. 2/complainant got registered the present F.I.R against the petitioner with the allegations that one day when the complainant was at home as she was having fever, the petitioner came to her house and took away the complainant by saying to her that he will get her check up from a good doctor in the city and further told that he will tell her father about all this. On this, the complainant sat with petitioner on his motorcycle. But when the petitioner did not talk to the father of the complainant, she raised raula. Thereafter, the petitioner took the complainant to a road near the canal to a vacant place, where he committed rape upon her against her wishes and thereafter, left her outside a village in

the dark. In the morning, persons of village Shekho met her who informed the family members of the complainant.

However, the matter has now been duly compromised, vide compromise dated 29.05.2016 (Annexure P-2).

In compliance of order dated 13.07.2016, report dated 24.08.2016 of Principal Magistrate, Juvenile Justice Borad, Bathinda, has been received in this regard. As per report, statement of parties have been recorded. Complainant stated that the matter stands compromised between the parties and she does not want to proceed further against the accused and has no objection, if the present F.I.R be quashed against the petitioner. The statement of the father of the complainant has also been recorded to the effect that he has no objection if the F.I.R be quashed against the petitioner, which was registered due to misunderstanding. The compromise has been entered voluntarily. To the same effect is the statement given by the petitioner.

The question for consideration before this Court is that whether the compromise can be affected between the prosecutrix and the petitioner where the offence is under Section 376 IPC, as both are minor.

Reference at this stage can be made to a judgment of Hon'ble Patna High Court in a case of *Sadhu alias Langra alias Shivji Mahto vs. State of Bihar, 2001(1) RCR (Crl) 666* wherein appellant committed rape upon minor girl and the prosecution proved charge as well but the parties entered into compromise outside Court. The Patna High Court by taking a lenient view, reduced the sentence of the appellant to the period already undergone by him.

In the present case, the petitioner and the prosecutrix are minor

and the compromise has been effected between the parties during the pendency of the trial itself.

Keeping in view their tender age and applying the ratio of the above said judgment, no useful purpose would be served in prolonging the litigation, as the matter stands compromise between the parties. Further father of the complainant has also stated in his statement that he has got registered the above said F.I.R on the saying of other people as he was preplexed. Further he had compromised the matter as the prosecutrix and the petitioner are of the same village and he want to maintain peace in the village.

Accordingly, FIR No. 15 dated 10.02.2016 under Sections 363/376/506 IPC and Section 4 of POCSO Act, registered at Police Station Sadar Bathinda, District Bathinda, is quashed along with all consequential proceedings arising therefrom qua petitioner.

The petition stands disposed of.

09.11.2016
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned *Yes*

Whether reportable *No*