

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

**Criminal Misc. No. M-23831 of 2015
Date of decision: 03.03.2016**

Parveen Kumar

..Petitioner

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers 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: Mr. Rajesh Gupta, Advocate
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab
for respondent No.1 – State.

Mr. Munish Puri, Advocate
for respondent No.2.

Daya Chaudhary, J.

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.04 dated 30.01.2015 registered under Sections 354-D and 506 of Indian Penal Code (for short 'IPC') as well as later on added Section 354 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Dhar Kalan, District Pathankot on the basis of compromise (Annexure P-3) arrived at between the parties.

The aforesaid FIR was registered on the basis of complaint made by the complainant, who is father of respondent No.2.

As per allegations levelled in the FIR, respondent No.2 while going to

school was followed by accused-Parveen Kumar. She also told this incident to her parents. One day, said Parveen Kumar asked respondent No.2 to sit on his motorcycle so that she could be left in the School. The accused also asked respondent No.2 to talk to him on phone, failing which, he will kidnap her younger sister-Pinda. During pendency of the proceedings, with the intervention of respectables and relatives, the parties have sorted out their dispute, as both the parties are residents of same locality. The petitioner filed Criminal Misc. No. M-13960 of 2015 for grant of anticipatory bail, which was allowed vide order dated 17.07.2015, which is reproduced as under: -

“This is a petition under Section 438 Cr.P.C. praying for release of the petitioner on bail in terms thereof in a case registered vide FIR No.4 dated 30.1.2015 under Sections 354-D, 506 IPC (Sections 354 IPC and 8 of Protection of Children from Sexual Offences Act, 2012 added later on), at Police Station Dhar Kalan, District Pathankot.

Learned counsel for the petitioner had contended before this Court that the petitioner was accused of having committed an offence under Sections 354D and 506 IPC which are bailable and he was never subjected to arrest. He also contended that investigation was completed and challan submitted and at that time legal opinion surfaced that Section 354 IPC and Section 8 of Protection of Children from Sexual Offices Act, 2012 ought to be included, as a result of which he now apprehends his

arrest. He further contended that a perusal of the FIR would not constitute an offence under Sections 354 IPC and 8 of the aforesaid Act and the allegations if accepted would imply stalking the complainant without any physical touch.

Noticing this, this Court on 1.5.2015 had granted the interim protection to the petitioner subject to his complying with the provisions of Section 438(2) Cr.P.C., pursuant to which he has since joined the investigation, which fact is not controverted by the learned counsel for the State on instructions from ASI Babu Ram.

Having regard to the aforesaid, the interim directions dated 1.5.2015 are hereby made absolute subject to the condition that the petitioner continues to comply with the provisions of Section 438(2) Cr.P.C.

Petition stands allowed.”

Notice of motion was issued in the case on 23.07.2015 and thereafter, the case came up for hearing on 21.12.2015 and following order was passed: -

“ This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No. 04 dated 30.01.2015, under Sections 354-D, 506 IPC (later on added Section 354 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012), registered at Police Station, Dhar Kalan, District Pathankot.

Mr.Munish Puri, Advocate has entered appearance on behalf of respondent No.2 and states that compromise has been effected.

Learned counsel for the petitioner undertakes to supply a copy of the petition to learned counsel for respondent No.2. during the course of the day.

Even though offences are serious, yet since the parties have compromised the matter, let the parties record their statements with regard to compromise at the first instance. Let them appear before the Illaqa Magistrate/Chief Judicial Magistrate on 27.01.2016 or any other date convenient to the Magistrate for recording their statements with regard to compromise. The Illaqa Magistrate/Chief Judicial Magistrate, Pathankot is directed to record the statements of both the parties to his satisfaction to know its genuineness that the statements are not the result of any pressure or coercion in any manner. The Illaqa Magistrate/Chief Judicial Magistrate is also directed to send a report along with statements of the parties with regard to validity or otherwise of the compromise effected between the parties and also intimate whether any criminal proceedings are pending against either of the parties or not before the next date of hearing.

Adjourned to 03.03.2016 for awaiting the report of the Illaqa Magistrate/Chief Judicial Magistrate, Pathankot.”

In response to the said directions issued by this Court, the statements of the parties were recorded by Judicial Magistrate Ist Class, Pathankot. After recording of their statements, a report along

with the statements of the parties has been sent, which is on record wherein the factum of compromise has been affirmed. It has also been mentioned in the report that the compromise arrived at between the parties is as per free will and without any pressure from either side. Complainant, who is father of respondent No.2, has specifically stated in his statement that he has no grudge against the accused-petitioner and has no objection in quashing of the FIR and other proceedings.

The compromise (Annexure P-3) arrived at between the parties has been signed by the petitioner, complainant, respondent No.2, Sarpanch, Nambardar and other villagers. It has been mentioned by the parties in the compromise that they have compromised their dispute and either of the party is not interested in taking any legal action. Moreover, a perusal of FIR shows that no offence is made out under Section 354 IPC as only allegation against the petitioner is that he asked the daughter of the complainant to sit on his motorcycle so that she can be left in the School.

The ingredients of Section 354 IPC are not there and it cannot be said that offence under Section 354 IPC is made out. Besides this, both the parties have settled their dispute by way of compromise and complainant as well as respondent No.2 have no objection in quashing of the FIR. No purpose would be served in case proceedings are continued in future as the complainant is not going to support the case of the prosecution. The continuation of proceedings

would be a futile exercise and it will be wastage of precious time of the Court.

It has 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 the abuse of the process of law or to secure the ends of justice.

Moreover, this Court has inherent power to quash criminal proceedings in the interest of both the parties. Moreover, both the parties are residents of same area. The complainant, who is father of respondent No.2, as well as respondent No.2 herself have specifically stated in their statements that they have no objection in quashing of the FIR and other proceedings.

Accordingly, the present petition is allowed and the impugned criminal proceedings arising out of FIR No.04 dated 30.01.2015 registered under Sections 354-D and 506 IPC as well as later on added Section 354 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Dhar Kalan, District Pathankot as well as all subsequent proceedings arising therefrom qua petitioner, namely, Parveen Kumar, are hereby quashed.

03.03.2016
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(DAYA CHAUDHARY)
JUDGE