

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-39419 of 2015

DATE OF DECISION: 22.01.2016

Gurlal Singh

.....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:- Mr. SS Sidhu, Advocate
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

Mr. Kanwal Goyal, Advocate
for respondent No.2.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 482 Cr.P.C. by the petitioner for quashing of FIR No. 28 dated 2.5.2015 registered under Section 376 IPC and Section 313 IPC (added later on) at Police Station Nayagaon, District, SAS Nagar Mohali, on the basis of compromise.

As per the case of the parties, petitioner and respondent No.2 were working as Constables in Punjab Police and were having liking for each other for the last more than two years. Due to caste difference, their family members were not agreeing for marriage. Respondent No.2 under

the pressure of her family members got registered an FIR against the petitioner. Subsequently both the families agreed for marriage, which was solemnized between the petitioner and respondent No.2. The marriage certificate as well affidavit furnished by respondent No.2 have been annexed with this petition.

Learned counsel for the petitioner contends that the petitioner and respondent No.2 are residing together as husband and wife and are happy in their matrimonial life and no offence under Section 376 IPC is made out against the petitioner.

Reply on behalf of the respondent-State has been filed in the Court today and the same is taken on record. In the reply, it has been mentioned that marriage between the petitioner and respondent No.2 was solemnized on 2.8.2015 and now they are residing happily as husband and wife.

A perusal of documents available on the file shows that complaint was sent for Inquiry to SP City-I Mohali, where, both the parties were called for counselling by the investigating officer. A detailed statement of the petitioner was recorded, wherein, he had stated that he never refused to marry respondent No.2 and was ready to marry her subsequently as well . On this a written compromise was arrived at between the parties in the presence of mother and brother of the complainant, wherein, it was agreed to perform marriage of the petitioner with respondent No.2. Said written compromise is also part of the police file and it has also been mentioned in the inquiry report conducted by the inquiry officer. Accordingly, it was found that no offence was made out against the petitioner and the FIR was registered due to some misunderstanding between the parties.

Both the parties are present in the Court today and have been

identified by their respective counsel. They submit that they are happy in their married life and have no grouse against each other. The complainant has specifically stated that she is happy in her matrimonial life and has no objection in quashing of the FIR and other proceedings arising therefrom.

Hon'ble the Apex Court in the case of **Deelip Singh @ Dilip Kumar Vs. State of Bihar** 2004 (4) RCR (Criminal) 972 has held that in case the accused has committed rape on prosecutrix after promising to marry her and that promise was genuine but marriage could not be materialized because of family pressure then accused is not guilty of rape. It can be a breach of promise. Same view has been taken by Hon'ble the Apex Court in case titled as **K.P. Thimmappa Gowda Vs. State of Karnataka** 2011 (2) RCR (Crl.) 589. In the said case, the accused promised the prosecutrix to marry her and had sex with her and when she became pregnant, accused refused to marry with her. In that case accused was not held guilty of offence punishable under Section 376 IPC as the prosecutrix was above 16 years of age and was the consenting party.

In this case, respondent No.2 has given her affidavit before this Court with regard to performing of her marriage with the petitioner, which is as per her own will and consent. The petitioner was granted the benefit of anticipatory bail on the basis of statement given by respondent No.2. The judgments passed by Hon'ble the Apex Court in the cases of **Indra Sarma Vs. V.K.Y. Sarma** 2014 (1) RCR (Criminal) 179 and **Lata Singh Vs. State of U.P. and another** 2006 (5) SCC 475 are applicable in the present case.

In view of the facts as mentioned above; by considering the submissions made by learned counsel for the parties and compromise arrived at between them, the present petition is allowed and FIR No. 28 dated 2.5.2015 registered under Section 376 IPC and Section 313 IPC

added later on at Police Station Nayagaon, District, SAS Nagar Mohali and all subsequent proceedings arising therefrom qua the petitioner, namely, Gurlal Singh are hereby quashed.

January 22, 2016
pooja

(DAYA CHAUDHARY)
JUDGE