

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

**Crl. Misc. M No.8339 of 2016 (O&M)
Date of decision : 07.04.2016**

Sikander Singh @ Chhinder

.....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Harmandeep Singh, Advocate
for the petitioner.

ANITA CHAUDHRY, J.

The petitioner is seeking quashing of FIR No.36 dated 10.05.2014, registered under Sections 363/366-A IPC (Section 376 IPC and Section 4 of POCSO Act added later on), P.S. Mamdot, District Ferozepur, on the basis of compromise (Annexure P-2).

The case was fixed today for arguments on the maintainability of the petition. The complainant side has appeared, though notice had not been issued to them. A query was posed regarding the stage of the trial. The counsel for the complainant states that the challan has been presented and prosecution witnesses have been examined and the case is fixed for defence evidence. He also states that the prosecutrix had deposed against the accused.

The counsel for the petitioner relies upon ***Gursewak V. State of Haryana 2015 SCC OnLine P&H 18430, Gurjit Singh V. State of Punjab 2015 SCC OnLine P&H 18730, Kanwaljit Singh V. State of Punjab 2015 SCC OnLine P&H 16733, Ominder V. State of Punjab 2015 SCC OnLine P&H 18722 and Sunil Kumar V. Geeta 2015 SCC OnLine P&H 17800*** and urges that the complainant side has appeared today and they may be permitted to settle the matter in view of the relationship between the parties.

I have gone through the judgments.

The petitioner was married to Rupa Rani, the eldest sister of the prosecutrix. The petitioner is alleged to have kidnapped and raped the prosecutrix. A complaint was lodged with the police and the FIR was registered in May, 2014. It is stated that settlement has now been effected in February, 2016.

It is apt to refer to a judgment of the Apex Court in State of M.P. Vs. Madanlal in Crl. Appeal No.231 of 2015, D.O.D. 01.07.2015:-

“16. The aforesaid view was expressed while dealing with the imposition of sentence. We would like to clearly state that in a case of rape or attempt of rape, the conception of compromise under no circumstances can really be thought of. These are crimes against the body of a woman which is her own temple. These are offences which suffocate the breath of life and sully the reputation. And reputation, needless to emphasise, is the richest jewel one can conceive of in life. No one would allow it to be extinguished. When a

*human frame is defiled, the “purest treasure”, is lost. Dignity of a woman is a part of her non-perishable and immortal self and no one should ever think of painting it in clay. There cannot be a compromise or settlement as it would be against her honour which matters the most. It is sacrosanct. Sometimes solace is given that the perpetrator of the crime has acceded to enter into wedlock with her which is nothing but putting pressure in an adroit manner; and we say with emphasis that the Courts are to remain absolutely away from this subterfuge to adopt a soft approach to the case, for any kind of liberal approach has to be put in the compartment of spectacular error. Or to put it differently, it would be in the realm of a sanctuary of error. We are compelled to say so as such an attitude reflects lack of sensibility towards the dignity, the elan vital, of a woman. Any kind of liberal approach or thought of mediation in this regard is thoroughly and completely sans legal permissibility. It has to be kept in mind, as has been held in **Shyam Narain v. State (NCT of Delhi)** that:-*

“Respect for reputation of women in the society shows the basic civility of a civilised society. No member of society can afford to conceive the idea that he can create a hollow in the honour of a woman. Such thinking is not only lamentable but also deplorable. It would not be an exaggeration to say that the thought of sullyng the physical frame of a woman is the demolition of the accepted civilised norm i.e. “physical morality”. In such a sphere, impetuosity has no room. The youthful excitement has no place. It

should be paramount in everyone's mind that, on the one hand, society as a whole cannot preach from the pulpit about social, economic and political equality of the sexes and, on the other, some perverted members of the same society dehumanise the woman by attacking her body and ruining her chastity. It is an assault on the individuality and inherent dignity of a woman with the mindset that she should be elegantly servile to men."

The allegations are serious. It is not a case of run away couple. The judgments relied upon are not applicable. The facts there were completely different. Considering the seriousness of the allegations, the parties cannot be permitted to compromise. There can be no compromise in rape cases. The victim has already made her statement before the trial Court. It is for that Court to now examine it. The petition is dismissed.

07.04.2016
sunil

(ANITA CHAUDHRY)
JUDGE