

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-1245-SB of 2015 (O&M)

Date of Decision: 31.05.2017

Jaspal Singh

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ashish Aggarwal, Advocate, for the petitioner.

Ms.Mahima Yashpal, AAG, Haryana.

Ms.Sonia Sharma, Advocate for the
complainant/Mandeep Kaur.

RITU BAHRI, J. (ORAL)

CRA-S-1245-SB of 2015

Application is allowed.

Compromise deed dated 26.04.2017 (Annexure A-1) is taken on
record.

CRA-S-1245 of 2015

Pursuant to the compromise deed, a draft of Rs.2 Lac has been
handed over to the complainant-Mandeep Kaur and second and last instalment
of Rs.2.5 Lacs will be paid at the time of hearing the case i.e. CR No.70 of
2016 titled as Mandeep Kaur Vs. Jaspal Singh Gjumman and others on or
before 30.09.2017.

The present appeal has been filed against the judgment dated
03.03.2015 and order or sentence dated 04.03.2015, whereby, the petitioner-
Jaspal Singh has been convicted under Sections 376(I) and sentenced to
undergo rigorous imprisonment for 7 years and he has been further convicted

for the offence under Section 495 IPC and sentence to undergo rigorous imprisonment for 3 years. The petitioner has also been directed to pay Rs.30,000/- for committing offence under Section 376(1) and Rs.20,000/- for committing offence under Section 495 IPC and in default thereof to further undergo rigorous imprisonment for 1 year and 9 months respectively.

During the pendency of the present appeal, a compromise (Annexure A-1) has been effected between the parties in the connected revision petition i.e CR No.70 of 2016. A perusal of Annexure A-1 shows that the complainant has filed a petition under Section 11 of HMA against the petitioner pending at Panchkula. The petitioner has no objection if this petition is allowed. In terms of compromise both the parties have agreed to withdraw all the cases filed against each other. In terms of compromise, parties have further agreed and accepted that Jaspal Singh Ghumman shall pay a consolidated amount of Rs.4,50,000/- to Mandeep Kaur-complainant which shall include everything relating to her as full and final settlement amount. Today, the complainant has received Rs.2 Lacs on filing the application in the present case.

As per custody certificate, the appellant has undergone 01 year, 11 months and 21 days of actual undergone period as on 30.05.2017. Learned counsel for the petitioner at this stage is not challenged the conviction and he is only prayed for quantum of sentence. Learned counsel for the appellant has further submitted that the victim and the accused have entered into a compromise stating therein that the prosecutrix does not want to proceed with the case against the accused and wants to close the case. He further contends that this is an adequate and special reason for awarding lesser sentence. At this stage, he has referred to the judgment of Hon'ble Supreme Court in the cases

of Baldev Singh and others Vs. State of Punjab 2011 AIR (SC) (Cri) 599 and Ravindra Vs. State of Madhya Pradesh 2015 (2) (Criminal) 124 in support of his contention.

Learned counsel for the appellant has referred to a judgment of Hon'ble the Supreme Court of India in a case of Baldev Singh and others v. State of Punjab, 2011 AIR (SC) (Cri) 599 wherein three accused were convicted and sentenced to 10 years. However, the parties entered into compromise and the sentence of the accused was reduced to the period already undergone by them by imposing a fine of Rs.50,000/-on each of the accused to be paid to the prosecutrix.

Reference has further been made to a judgment of Ravindra vs. State of Madhya Pradesh 2015(2) Criminal 124 wherein accused was convicted and sentenced to 10 years rigorous imprisonment under Section 376(2) (g) IPC . However, the parties entered into compromise and are now married (not with each others). The conviction was upheld and the sentence of the accused was reduced to the period already undergone by him, keeping in view the fact that the matter was 20 years old and the parties are now married. In para 16 and 17, it has been observed as under:-

“16. The fourth ground of defence taken by the appellant is that under proviso to Section 376(2) of IPC, the legislature has empowered the Court to award lesser sentence where “adequate and special reasons” exist. The incident in the present case had taken place 20 years ago. The victim (prosecutrix) and the accused have entered into a compromise stating therein that the prosecutrix does not want to proceed with the case against the accused and wants to close the case. Both of them are married (not to each other) and have settled in life. Learned counsel for the appellant contends that this is an “adequate and special reason” for awarding lesser sentence.

17. This Court has in the case of Baldev Singh & Ors. v. State of Punjab, (2011) 13 SCC 705, invoked the proviso to Section 376 (2) (g) of IPC on the consideration that the case was an old one. The facts of the above case also state that there was compromise entered into between the parties.”

In the facts of the present case, the complainant married with the appellant on 25.02.2007 and they started leading married life. However, in the month of June, 2013 when she came to know that the appellant had already married and having two children out of that wedlock, she made a complaint that the appellant had developed physical relation with her without disclosing the factum of his first marriage. But now the matter has been duly compromised between the parties, as per compromise deed (Annexure A-1) Thus, the matrimonial dispute between the parties has now been resolved amicably.

So, in the light of discussion above and keeping in view that it is a matrimonial dispute between the parties and on the basis of the same FIR was got registered and during the pendency of appeal, compromise (Annexure A-1) has been effected between the parties where both the parties have agreed to settle all the disputes amicably, the appeal is allowed and sentence of appellant is reduced to the period already undergone by the appellant.

(RITU BAHRI)
JUDGE

31.05.2017
anil

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No