

CRM -M-13716 of 2016

In the High Court of Punjab and Haryana at Chandigarh

**CRM -M-13716 of 2016
Date of Decision: 7.2.2017**

Rizwan Saifi

---Petitioner

versus

State of Punjab and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mohd. Salim, Advocate
for the petitioner**

Mr. Mikhail Kad, AAG, Punjab

**Mr. Barjesh Sharma, Advocate
for respondent No.2/complainant**

Rekha Mittal, J.

The petitioner has prayed for quashing of FIR No. 15 dated 30.1.2016 for offence punishable under Sections 366-A, 376, 506 of the Indian Penal Code (in short "IPC") and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (in short "the Act") (Section 6 of the Act added later) registered at Police Station, City-I Malerkotla, District Sangrur on the basis of compromise(Annexures P-2) and memorandum of gift deed dated 14.3.2016 (Annexure P-4).

In the instant case, the FIR was registered on the statement of respondent No.2-complainant Shehnika wife of Rizwan Saifi. Now the matter has been amicably settled between the parties.

Reply by way of affidavit of Pritpal Singh, Deputy Superintendent of Police, Malerkotla on behalf of respondent No. 1, filed in the Court is taken on record.

Respondent No.2-complainant is present in the Court with her counsel. Affidavit dated 7.2.2017 of respondent No.2 filed in Court, is taken on record. Her statement was recorded in the Court and an extract therefrom reads thus:-

“FIR No. 15 dated 30.1.2016 for offence punishable under Sections 366-A, 376, 506 IPC and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (Section 6 of the Act added later) was registered at my instance. I have performed marriage with Rizwan Saifi on 5.3.2016 and since then both of us are residing as husband and wife. My father-in-law namely Laldeen has transferred one residential house in my name where we both are residing. In case, Rizwan Saifi faces the criminal proceedings lodged at my instance, it may result in marital disharmony and I would again be the victim. I have filed my affidavit today in the Court which may be read as a part of my statement. I have got no objection if the FIR and proceedings emanating therefrom are ordered to be quashed.”

Counsel for the petitioner submits that as the parties have amicably settled their differences, no useful purpose would be served by continuation of the criminal proceedings.

Counsel for respondent No. 2 has not disputed contention of the petitioners that the parties have arrived at an amicable settlement.

I have heard counsel for the parties and perused the records.

There is nothing on record to doubt correctness of the compromise effected between the parties, whereby they have decided to settle their dispute with an intent to live in peace and harmony. As petitioner and respondent No. 2 have performed marriage, there is no possibility of the respondent supporting the charge in case the petitioner is put to trial. In the circumstances, I am of the considered opinion that continuation of the criminal proceedings would be nothing but an empty formality in which a wife would be called upon to depose against her husband but in all probability, she would give a statement in his favour. Hence, there is a remote and bleak rather no possibility of the trial culminating in the judgment of conviction even if allowed to proceed with. Continuation of criminal proceedings in the given circumstances, would be nothing but an exercise in futility and that too at the risk of creating acrimony in the matrimonial relations of the petitioner and respondent No. 2 who had decided to marry and lead a happy married life as husband and wife. Examined from another angle, the complainant is stated to be victim of the crime. If her husband is put to trial and eventually punished, the real victim again would be the complainant who would be deprived of care, company and financial support of her husband. In this view of the matter, criminal proceedings initiated at the instance of respondent No. 2 are liable to be put to an end and ordered accordingly.

In view of what has been discussed hereinabove, the petition is

allowed, FIR No. 15 dated 30.1.2016 for offence punishable under Sections 366-A, 376, 506 IPC and Sections 3 and 4 of the Act (Section 6 of the Act added later) registered at Police Station, City-I Malerkotla, District Sangrur is ordered to be quashed qua the petitioner.

(Rekha Mittal)
Judge

7.2.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No