

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

Crl. Misc. M 13838 of 2015 (O&M)
Date of decision: 11.7.2017

Manjinder Singh @ Buta and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Ranjit Sharma, Advocate
for the petitioners.

Mr. MS Nagra, AAG, Punjab.

Mr. SS Sodhi, Advocate,
for the complainant-respondent No.2.

JAISHREE THAKUR, J.

1. This petition under Section 482 Cr.P.C. has been filed seeking quashing of FIR No. 32 dated 10.3.2015 under Sections 341, 376, 506 and 511/34 IPC registered at Police Station Lopoke, District Amritsar, on the basis of compromise (Annexure P/2).

2. In brief, the facts of the case are that an FIR came to be registered on 10.3.2015 under Sections 341, 376, 506 and 511/34 IPC registered at Police Station Lopoke, District Amritsar, in which it was stated by the complainant-respondent No.2 that on the date of occurrence at 3:30 p.m., while she coming back after studying in the college and was going to her house after getting down from the van, the accused-petitioners, who were on a motorcycle came in front of her and petitioner No.1 told her that

she should take their mobile number and talk to them. On this she replied as to why she should talk to them. When she was on her way to her house, petitioner No.1, after getting down from the motorcycle, caught hold of her from the arm and dragged her towards himself. However, the complainant got her arm freed. Thereafter, petitioner No.2 caught hold of her from both of her arms and threw her on the ground and then both of them tried to commit rape and also threatened that in case she discloses this to anyone, she will be killed. On raising alarm, both of them fled from the spot on the motorcycle.

3. Immediately after lodging of the FIR, the complainant herein swore an affidavit and made a statement to the effect that the matter has been compromised. It is stated in the petition, that due to the misunderstanding the case FIR was lodged by the complainant. The petitioners and the complainant are resident of the same village and in fact no rape was committed and it is the police who intentionally added Section 376 IPC. It is prayed that the FIR and all other proceedings taken thereafter be quashed in order to bring an end to the litigation between the parties. Based on the said compromise, the instant quashing petition was filed.

4. By an order dated 5.4.2017, the parties were directed to appear before the trial court so that their statement could be recorded regarding the genuineness of the compromise. The parties appeared before the Judicial Magistrate, Ist Class wherein a statement was made by the complainant that she did not want to pursue the FIR. It has also been reported that petitioner No.2 Chamkaur Singh has died on 17.4.2017.

5. In normal circumstances, the Court would not entertain a matter

when the non compoundable offences are heinous in nature and against the public. In the instant case, the offence complained of is under Section 376 IPC which is an offence of grave nature. In the eyes of law, the offence of rape is serious and non-compoundable and the Courts should not in ordinary circumstances interfere and quash the FIR that has been registered.

6. In the instant case, the allegations as stated in the FIR, were made on 10.3.2015. Immediately within a period of 11 days, respondent No.2 swore an affidavit and rescinded her allegations in the FIR. Even a compromise that has been arrived between the parties, on the intervention of the respectables of the society, it has been decided that the FIR would not be pursued. There is also no MLR that was conducted since the allegation is only of attempt to commit rape.

7. In a judgment rendered by the Hon'ble Supreme Court in ***Narinder Singh and others vs. State of Punjab and another, 2014(6) SCC 466***, the Hon'ble Apex Court has laid down certain principles and guidelines which should be kept in mind while quashing of FIRs pertaining to noncompoundable offence. For ready reference paragraphs No. 29.2 and 29.5 are reproduced as under :-

“29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure :

(i) ends of justice, or

(ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case.”

8. Even in a judgment rendered by the Hon'ble Supreme Court in ***Madan Mohan Abbot vs State Of Punjab, 2008 (4) SCC 582***, it has been held that it is advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings. Relevant paragraph of the said judgment is reproduced herein below :-

“5. It is on the basis of this compromise that the application was filed in the High Court for quashing of proceedings which has been dismissed by the impugned order. We notice from a reading of the FIR and the other documents on record that the dispute was purely a personal one between two contesting parties and that it arose out of extensive business dealings between them and that there was absolutely no public policy involved in the nature of the allegations made against the accused. We are, therefore, of the opinion that no useful purpose would be served in continuing with the proceedings in the light of the compromise and also in the light of the fact that the complainant has, on 11th January 2004, passed away and the possibility of a conviction being recorded has thus to be

ruled out.

6. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

9. Even in the judgment rendered in ***Gian Singh vs State of Punjab & Anr, reported as 2012(10) SCC 303*** the basic principle of law as laid down is that where offences are purely private in nature and do not concern public policy, the power to quash proceedings involving non-compoundable offences on the basis of compromise can be exercised.

10. Therefore, while relying upon the ratios of the aforesaid judgments, this Court is of the view that the compromise which has been entered into for quashing of an offence under Section 376 IPC on the basis of the compromise should be accepted. As has been held in ***Narinder Singh & Ors.*** case (supra) those cases where a settlement is arrived at immediately after the alleged commission of the offence the High Court may be liberal in accepting the settlement to quash the criminal proceedings.

11. Consequently, in view of the above, this petition is allowed and the FIR No. 32 dated 10.3.2015 under Sections 341, 376, 506 and 511/34

IPC registered at Police Station Lopoke, District Amritsar, and all subsequent proceedings arising out of the same are quashed.

11.7.2017
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No