

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

CRM No.M-21208 of 2015 (O&M)

Date of decision: 01.02.2017

Mukesh

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ram Bilas Gupta, Advocate
for the petitioner.

Mr. Amrik Singh Narwal, DAG, Haryana.

Mr. Sarvesh Kumar Gupta, Advocate
for respondent No.2.

REKHA MITTAL J.

The petitioner prays for quashing of FIR No.432 dated 17.07.2014 for offence punishable under Sections 376 and 506 of the Indian Penal Code (in short 'IPC') registered at Police Station Ballabgarh City, District Faridabad and proceedings emanating therefrom on the basis of compromise dated 05.05.2015 (Annexure P2) arrived at between the parties.

Counsel for the petitioner has submitted that as dispute between the parties has been settled by way of compromise (Annexure P2), continuation of criminal proceedings on the basis of aforesaid FIR lodged at the instance of the complainant/respondent No.2 would be nothing but abuse and misuse of process of law at the cost of aggravating alleged misery to the complainant. To bring home his contention, it is argued that as per the allegations raised in the FIR, complainant was earlier married with Ramesh son of Balu resident of

village Swamika and out of that wedlock 02 children aged 14 years and 12 years were born. About 10 years ago, the complainant met the petitioner and developed physical relationship on the pretext that he will perform marriage with her and thereafter adopt the children born out of her previous wedlock. Later, accused started beating and harassing her and did not perform marriage. It is vehemently argued that as the petitioner has now performed marriage with the complainant and both the parties are living together as husband and wife, grievance expressed by the complainant gets completely redressed, thus, the petitioner is liable to be exonerated of the alleged illegal conduct.

Pawan @ Suman, complainant filed reply by way of affidavit dated 07.08.2015 (Mark C1) with regard to settlement of dispute between the parties. A relevant extract from paras 3 and 4 of the affidavit reads as follows:-

“3. That deponent as well as accused petitioner settle the dispute amicably full and final as per the compromise (Annexure P2) and reside together as husband and wife. It is relevant to mention here that as per the compromise the petitioner would transfer some land in favour of the answering respondent but now instead of transferring the land in favour of the answering respondent the petitioner has given money in lieu of the transfer of land.

4. That deponent in view of the above compromise is satisfied and does not want to proceed against the accused petitioner further. The deponent has no objection in case this Hon'ble High Court allow the instant quashing petition and quash the FIR and all consequential proceedings against the petitioner.”

Not only this, Smt. Pawan @ Suman got recorded her

statement dated 01.02.2017 and an extract therefrom reads as follows:-

Statement of Smt. Pawan @ Suman daughter of Sh. Charan Singh, wife of Mukesh, resident of Gali No.3, Ward No.40, Ballabgarh, District Faridabad.

FIR No.432 dated 17.07.2014 under Sections 376 and 506 IPC was registered at Police Station Ballabgarh City, District Fardidabad on my statement. My main grievance was that the petitioner maintained physical relation with me on a false promise of marriage but later he did not come true to his promise. My statement dated 20.04.2015 in this regard was recorded in trial proceedings by Additional Sessions Judge, Faridabad. Subsequent thereto, on 28.05.2015, Mukesh has performed marriage with me and both of us are living as husband and wife along with two children born out of my previous wedlock. I have filed my affidavit dated 07.08.2015 Mark-C1 which may be read as a part of my statement. I have got no objection if the aforesaid FIR and proceedings emanating therefrom are ordered to be quashed.

*RO&AC
01.02.2017*

*(REKHA MITTAL)
JUDGE*

Counsel for respondent No.2 has conceded to the contentions raised by counsel for the petitioner that the parties have amicably resolved their differences and are residing together as husband and wife.

I have heard counsel for the parties, perused the paperbook particularly testimony of the complainant recorded by the trial Court on 20.04.2015, affidavit of the complainant dated 07.08.2015 and her statement recorded before this Court.

Before advertng to the submissions made by counsel for

the parties, it is appropriate to mention that this Court is not oblivious of the fact that Hon'ble the Supreme Court of India in “*Gian Singh vs State of Punjab and another*”, 2012(4) R.C.R. (Criminal) 543 has held that the Court will not allow quashing of criminal proceedings on the basis of compromise in cases involving serious and heinous offences such like rape, cases registered under Prevention of Corruption Act and cases affecting public at large.

The question that calls for consideration is whether in the given facts and circumstances, criminal proceedings should not be allowed to be quashed merely because the petitioner has been charged for committing offence punishable under Section 376 IPC.

Perusal of the testimony of Pawan @ Suman recorded by the trial Court would make it evident that sole grievance of the complainant is that she lastly requested the accused to solemnize marriage with her in the year 2013 but he got annoyed and caused injuries mercilessly. When she got fed up with sexual activities of the accused, on 17.07.2014 she went to P.P. Adarsh Nagar and recorded her statement in presence of legal aid counsel and the present case was registered. Counsel for the parties are *ad idem* that the petitioner and complainant have performed marriage in the year 2015 and they are leading a blissful married life. The very fact that the petitioner has performed marriage with the complainant which was the alleged promise made to her when they developed physical relationship about 10 years ago, grievance of the complainant gets redressed substantially much less completely. The prosecution is lodged on the allegations that respondent No.2 is the victim of the crime. However, if the petitioner is

now prosecuted and convicted, again it would be the respondent/complainant who shall become the victim. In that eventuality, we should not compound her sufferings and miseries more so when she voluntarily performed marriage with the petitioner and is residing with him as a wife.

Taking into consideration the peculiar facts and circumstances of the present case, I am of the considered opinion that the judgment in *Gian Singh's case (supra)* cannot be allowed to stand in the way in the interest of substantial justice. In this view of the matter, I find merit in contentions of the petitioner that the criminal proceedings initiated vide FIR No.432 dated 17.07.2014 are liable to be put to an end.

For the foregoing reasons, the petition is allowed, FIR No.432 dated 17.07.2014 under Sections 376 and 506 IPC registered at Police Station Ballabgarh City, District Faridabad and proceedings emanating therefrom are ordered to be quashed.

(REKHA MITTAL)
JUDGE

01.02.2017
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No