

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

Crl. Misc. M-23897 of 2016 (O&M)
Date of Decision: December 18, 2017

Sukhpal Singh @ Sukhu

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. H.S. Randhawa, Advocate
for the petitioner.

Mr. A.S. Dhaliwal, DAG Punjab.

Mr. Yagyaang Ajay, Advocate for
Mr. Kawaljyot Singh, Advocate
for respondent No.2.

JAISHREE THAKUR, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.66 dated 06.07.2015 registered under Sections 452, 506, 376 of Indian Penal Code and Section 4 of POCSO Act at Police Station Bakshiwala, District Patiala (Annexure P/1) and all subsequent proceedings arising therefrom in view of the affidavit of prosecutrix (Annexure P/3).

2. In brief, the facts of the case are that the instant FIR came to be registered on 06.07.2015 on the statement of Baljit Kaur w/o Jagtar Singh, in which she stated that she has three children, out of whom Mandeep Kaur is eldest one, who is around 16 years old and studied in 8th class. The complainant further mentioned that her daughter told her that around 04

months back, when her father had gone to Karnataka and you (her mother) had gone to Bhakra Canal for bringing wood, at around 3.00 p.m. when she returned from school and changing her clothes, their neighbour's son Sukhpal Singh came inside their house and had forcibly raped her. Sukhpal Singh had threatened her that if she told about it to anyone, then he would kill her and due to this reason, she remained quiet and now her stomach and body remained heavy. The complainant allege that Sukhpal Singh had entered their house and had forcibly raped her daughter.

3. Immediately after lodging of the FIR, the matter was compromised between the parties on the intervention of respectables of the village. The prosecutrix had sworn in an affidavit to the effect that she had love affair with the petitioner and now they wanted to marry each other. In terms of the compromise, it was also agreed that the petitioner will perform a marriage with the daughter of complainant Baljit Kaur. It is stated in the petition that the matter has been compromised and that due to the misunderstanding the case FIR was lodged by the complainant. 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 18.07.2016, 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 Addl. Sessions Judge at Patiala wherein, a statement was made by the prosecutrix in which she stated that she did not want to pursue the FIR and that she would like to marry the petitioner herein. Statement of the both

parents of the prosecutrix were also recorded stating that they have no objection in case, their daughter marry the petitioner herein. On the same date, the petitioner herein also stated that he was ready and willing to perform marriage with the prosecutrix i.e. daughter of the complainant and he would keep her as his legally wedded wife.

5. In normal circumstances, the Court would not entertain a matter when the non compoundable offences are heinous and serious in nature. In the instant case, the offence complained of is under Section 376 IPC which is an offence of grave nature. This court is aware of the fact that time and again it has been held that an offence under Section 376 IPC is a grievous offence and considered as an offence against the society at large and thus, such matters should not be compromised. 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, since the matter was compromised, the petitioner herein was allowed interim bail by this court in Criminal Misc. No.M-39295 of 2016, allowing the petitioner and prosecutrix to solemnize their marriage on 19.12.2016, which has since been solemnized, as would be reflected from the certificate issued by Gurudwara Dashmesh Darbar Sahib, Village Guthmadha, District Patiala. This court is informed by learned counsel for the petitioner as well as respondent No.2 that after their marriage, the parties are residing happily as husband and wife. This court is of the opinion that in case, the proceedings are not allowed to be compromised, the prosecutrix herself would be put to hardship and interest of justice would not be met. Moreover, under these circumstances

continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak.

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, keeping in view the peculiar facts and circumstances of the present case and in view of the above ratios of law, this petition is allowed and the FIR No.66 dated 06.07.2015 registered under Sections 452, 506, 376 of Indian Penal Code and Section 4 of POCSO Act at Police Station Bakshiwala, District Patiala and all subsequent proceedings arising out of the same are quashed.

October 31, 2017
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No