

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

Crl. Misc. M-30761 of 2017 (O&M)
Date of Decision: November 03, 2017

Sarabjit Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. D.S. Kahlon, Advocate
for the petitioner.

Mr. A.S. Dhaliwal, DAG Punjab.

Ms. Mandeep Kaur, 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.126 dated 16.10.2011 registered under Sections 376 of Indian Penal Code at Police Station Sultanpur Lodhi, Tehsil Sultanpur Lodhi, District Kapurthala (Annexure P/1) and all subsequent proceedings arising therefrom in view of the compromise (Annexure P/2).

2. In brief, the facts of the case are that the instant FIR came to be registered on 16.10.2011 under Section 376 IPC in which it was stated by respondent No.2-complainant that when she used to go to school, accused Sarabjit Singh was following her and was harassing her. Thereafter, by misleading her, he took her into his confidence and told her that he wanted

to marry her. It is stated that the complainant also came into his confidence and thereafter, many times he made physical relations with her. It is alleged by the complainant that in spite of her refusal, accused Sarabjit Singh came to her house on 01.08.2011 and also made illicit relation with her. It is mentioned that when her parents saw all this, accused gave beatings to her father, due to which her father remained admitted in the hospital. It is submitted that thereafter, a decision was taken that the accused will marry her. It is alleged by the complainant that she came to know that accused Sarabjit Singh is trying to run away to abroad and if he will succeed in this, then her whole life would be ruined. The complainant made a request that till she attains majority, the accused should get engaged to her with her and when she attains majority, then marry her. She also requested for confiscation of passport of the accused, so that he cannot run away to abroad.

3. 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. 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 22.08.2017, 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 Addl. Sessions Judge at Kapurthala wherein, a statement was made by

the complainant that she did not want to pursue the FIR.

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, a reading of the FIR would show that both the petitioner and complainant had an affair, when they were of young age and got into physical relationship with each other. They were in relationship for some time and when the petitioner did not solemnize marriage with her, the instant FIR came to be lodged on 16.10.2011. It is thereafter that a compromise has been arrived at between the parties. Counsel for the parties informed this court that the complainant is now married and has two daughters. It is stated by complainant in her statement before the trial court that she is well settled and living happy married life. For her better future and for better future of her children, she did not want to pursue the present case and want to live in peace and harmony. This court is of the opinion that in case, the proceedings are not allowed to be compromised, the complainant herself would be put to hardship as she would necessarily have to appear before the courts to pursue the proceedings.

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.126 dated 16.10.2011 registered under Sections 376 of Indian Penal Code at Police Station Sultanpur Lodhi, Tehsil Sultanpur Lodhi, District Kapurthala and all subsequent proceedings arising out of the same are quashed.

November 03, 2017

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes
Yes/No