

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

Crl. Misc. M- 34484 of 2017 (O&M)
Date of Decision: November 13, 2017

Nishan Singh @ Sandeep Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

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

Mr. Davinder Bir Singh, DAG Punjab.

Mr. Vaibhav Mittal, 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.168 dated 15.08.2017 registered under Sections 363, 366-A of Indian Penal Code (offence under Section 376 of IPC added later on) at Police Station Cantonment, Amritsar (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 15.08.2017 on the statement of complainant-Baljinder Singh, in which it was stated that his eldest daughter Amanpreet Kaur, aged 17 years used to go on bus to WEBERZ Centre for IELTS coaching, which is

situated opposite to Guru Nanak Dev University market and would come back at 2.30 p.m. It is submitted that on 14.08.2017, his daughter went to WEBERZ Centre on bus as per her routine, but did not return back on time. Thereafter, he enquired about his daughter from neighbours and came to know that one Nishan Singh s/o Amrik Singh, who used to follow his daughter, had taken away his daughter by giving her false assurance of marriage.

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 a misunderstanding 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 15.09.2017, 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 at Amritsar wherein, statements were made by the complainant and his daughter that they 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 the petitioner and the prosecutrix are of young age. As per the compromise arrived at between the parties, the petitioner and the prosecutrix have already got married with their own sweet will. Now the complainant and the petitioner have no grudge against each other. As per the terms and conditions of compromise, once the FIR is quashed and the petitioner will come out of jail, the complainant will send his daughter with the petitioner as his 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. Since both the parties have amicably settled their dispute, 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.168 dated 15.08.2017 registered under

Sections 363, 366-A of Indian Penal Code (offence under Section 376 of IPC added later on) at Police Station Cantonment, Amritsar and all subsequent proceedings arising out of the same are quashed.

November 13, 2017

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes
Yes/No