

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

CRM-M No. 38502 of 2016

Date of decision: 09.01.2017

Sahilpreet Singh

..... Petitioner.

Versus

State of Punjab and others

..... Respondents.

CORAM: HON'BLE MS. JUSTICE LISA GILL

Present: Mr. Ashish Aggarwal, Advocate,
for the petitioner.

Mr. Sultan Singh Gill, DAG, Punjab.

Mr. Kuldeep Singh, Advocate, for
Mr. Dilpret Gandhi, Advocate
for respondents No. 2 and 3.

LISA GILL, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No. 38 dated 09.05.2016 (Annexure P-2) registered under Sections 306,354-D,511 of the Indian Penal Code (for short 'IPC') and Section 6 of the Prevention of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') at Police Station Tarsikka, District Amritsar Rural as well as all the subsequent proceedings.

The above said FIR has been registered on the statement of Mahinder Singh son of Bachan Singh - respondent No. 2 raising allegations against the petitioner- Sahilpreet Singh.

Learned counsel for the petitioner submits that the alleged victim in this case is alive. No offence, what so ever is made out under Sections 306,354-D and 511 IPC. A bare reading of the FIR itself reveals that neither is an offence under Section 6 POCSO Act made out against the

petitioner. The above said FIR was registered due to a misunderstanding between the parties, which has since been removed.

It is further submitted that prior to registration of the above said FIR No. 38 dated 09.05.2016, another FIR No. 106 dated 08.05.2016 under Sections 452, 427, 506, 148 and 149 IPC (Annexure P-1) was registered against respondent No.2- Mahinder Singh and his son Paramjit Singh on the basis of statement of Harjeet Singh son of Dalip Singh. Harjeet Singh is the paternal uncle (*Taya*) of the petitioner- Sahilpreet Singh. FIR No. 38 was registered subsequently on 09.05.2016. The said dispute has been settled between the parties and FIR No. 106 dated 08.05.2016 has been quashed on the basis of a compromise vide order dated 03.12.2016 passed in criminal miscellaneous No. M-38303 of 2016.

Apart from the fact that none of the offences as mentioned in FIR No. 38 dated 09.05.2016 are made out against the petitioner, a compromise has been arrived at between the parties on 15.10.2016 with the intervention of respectables, elders and friends. The parties wish to live in peace and harmony and put an end to the acrimony between them.

Learned counsel for the complainant/respondent No.2 verifies that the entire matter has been amicably resolved between the parties. They wish to live in peace and put an end to the acrimony between them. The alleged victim is his daughter. Respondent No.2 has no objection, whatsoever to the quashing of the above said FIR against the petitioner. His daughter too has no objection in this regard. It is admitted that FIR No. 106 dated 08.05.2016 against respondent No. 2 has since been quashed by this Court vide order dated 03.12.2016 passed in Criminal Miscellaneous No. M-38303 of 2016.

Keeping in view the facts of the case, this Court on 26.10.2016 had directed the parties to appear before learned trial court on 04.11.2016 for recording of their statements in respect to the above-mentioned compromise. Learned trial court was directed to submit a report regarding the genuineness of the compromise. Learned trial court was directed to intimate whether the petitioner is a proclaimed offender and to intimate regarding any other case pending against him.

Pursuant to order dated 26.10.2016 report dated 25.11.2016 has been received from learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, District Amritsar, wherein it is observed that the settlement has been arrived at between the parties voluntarily, out of their free will and without any pressure or coercion and the settlement appears to be genuine. Copies of the statements dated 05.11.2016 of the parties have been appended alongwith the report. Respondent No. 2- Mahinder Singh has stated that the matter has been settled amicably on intervention of the respectables of the village. He has arrived at the settlement out of his own free will, without any threat or pressure. Respondent No. 2 has stated that he has no objection to the quashing of the aforesaid FIR against the petitioner. Statement of Sumanpreet Kaur (aged 17 ½ years) as well as of the petitioner was also recorded. As per the statement of ASI Manjit Singh recorded on the same day, the petitioner is not a proclaimed offender.

It is to be noted that this Court would have been reluctant to interfere for quashing of the FIR on the basis of a settlement arrived at between the parties wherein allegations were to invite the rigors of Section 306 IPC and Section 6 POCSO Act. However, in the peculiar fact and circumstances of the case, as noted above, the presence of ingredients of Sections 306 IPC and 6

POCSO Act are indeed questionable. The subsequent settlement between the parties is only one of the attending circumstances. It is not in dispute that FIR No. 106 dated 08.05.2016 registered under Sections 452,427,506,148 and 149 IPC against respondent No. 2 on a day prior to the registration of the present FIR already stands quashed by this Court on 03.12.2016. The parties wish to live in peace and harmony. It is thus apparent that no useful purpose would be served by continuing the present proceedings. The possibility of conviction of the accused is extremely bleak. Continuance of these proceedings would indeed be a wastage of the precious time of the Court and would be an exercise in futility. It is indeed a fit case for exercise of jurisdiction of this Court under Section 482 Cr.P.C for ensuring complete justice between the parties.

This petition is, thus, allowed and FIR No. 38 dated 09.05.2016 registered under Sections 306,354-D,511 IPC and Section 6 POSCO Act at Police Station Tarsikka, District Amritsar Rural alongwith all subsequent proceedings are, hereby, quashed.

(LISA GILL)
JUDGE

09.01.2017

PA

Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*