

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

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Crl. Misc. M 40984 of 2016
Date of decision: 15.05.2017

Samandeep Kumar alias Shamandeep Kumar *Petitioner*

Versus

State of Punjab and another *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Bir Davinder Singh, Advocate
for the petitioner

Mr. Mikhail Kad, AAG, Punjab

Mr. Vinay Malhotra, Advocate
for respondent No. 2

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Rekha Mittal, J.

Through the present petition filed under Section 482 of the Code of Criminal Procedure (in short, 'Cr.P.C.'), the petitioner prays for quashing of FIR No. 140 dated 21.08.2015 for offence punishable under Section 376 of the Indian Penal Code (in short, 'IPC') registered with Police Station City Moga, District Moga and proceedings emanating therefrom on the basis of compromise dated 27.11.2015 (Annexure P2) arrived at between the parties.

Counsel for the petitioner contends that respondent No. 2/ complainant was major at the time of lodging of the FIR and after registration of the case, the petitioner and respondent No. 2 have performed marriage on 27.11.2015. It is also submitted that the petitioner and

respondent No. 2 are residing together as husband and wife, leading a happy married life.

As dispute between the petitioner and respondent No. 2 has been settled by way of compromise, vide order dated 17.11.2016, the parties were directed to appear before the Illaqa Magistrate/trial Court to get their statements recorded with regard to genuineness of compromise/settlement.

Pursuant thereto, a report has been submitted by the Judicial Magistrate Ist Class, Moga, wherein it has been reported that statements of the parties have been recorded and they have voluntarily compromised the matter.

Counsel for the State and respondent No. 2 have not disputed that dispute between the parties has been settled and they have performed marriage on 27.11.2015. Moreover, Soni (complainant) and Samandeep Kumar (petitioner) had approached this Court by filing a petition CRM M 40398 of 2015 for protection to their lives and liberty. It has been argued by counsel for the complainant that in view of developments, subsequent to registration of FIR and in the interest of marital harmony between the petitioner and respondent No. 2, it would be in the interest of justice to quash the criminal proceedings irrespective of the fact that offence under Section 376 IPC is grave in nature and cannot be allowed to be quashed on the basis of compromise in ordinary circumstances.

I have heard Counsel for the parties and perused the records.

Before advertng to the submissions made by Counsel for the parties, it is pertinent to mention that Hon'ble the Supreme Court of India in ***Gian Singh v. State of Punjab, 2012 (4) R.C.R. (Criminal) 543*** while dealing with jurisdiction of the High Courts to quash the criminal

proceedings in non-compoundable offences on the basis of compromise has held that in serious offences like murder, rape, dacoity etc. or other offences of mental depravity under the Indian Penal Code or offences of moral turpitude under special statutes, like Prevention of Corruption Act or offences committed by a public servant while working in that capacity as the settlement between the offender and victim can have no legal sanction at all, quashing petitions on the basis of compromise should not be allowed.

The question which invites answer is, whether the petition can be dismissed merely because the petitioner has been booked for committing offence punishable under Section 376 IPC irrespective of nature of allegations, age of the prosecutrix and subsequent developments highlighted by Counsel for the parties.

In the present case, after registration of FIR, the petitioner and respondent No. 2 have performed marriage on 27.11.2015. There is no contest between the parties that they are leading a happy married life. That being so, if the criminal proceedings are not put to an end, it may result in marital disharmony.

Looked from another angle, as respondent No. 2-prosecutrix has performed marriage with the petitioner, there is no possibility of her supporting the charge in case the petitioner is put to trial. In the circumstances, I am of the considered opinion that continuation of the criminal proceedings would be nothing but a mockery in which the wife would be called in the witness box to depose against her husband but in all probability, she would give a statement in his favour. Hence, there is a remote and bleak rather no possibility of the trial culminating in the judgment of conviction even if allowed to proceed with. In this context,

reference can be made to the judgment of this Court ***Yogesh Handa v. State of Punjab and another, 2013(4) R.C.R. (Criminal) 472.***

In view of the above, I have no hesitation to conclude that continuation of criminal proceedings would be counter productive and may boomerang to unsettle what has been settled between the parties by way of compromise whereby grievance expressed by the complainant in the FIR has been duly redressed.

In this view of the matter, the petition is allowed and FIR No. 140 dated 21.08.2015 for offence punishable under Section 376 IPC registered with Police Station City Moga, District Moga and proceedings emanating therefrom on the basis of compromise stand quashed qua the petitioner.

(Rekha Mittal)
Judge

15.05.2017
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Whether speaking/reasoned	:	Yes/No
whether reportable	:	Yes/No