

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

**CRM-M-9247-2017
Date of Decision: 28.07.2017**

Kamaljeet @ Sonu

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Zorawar Singh Chauhan, Advocate,
for the petitioner.

Mr. M. S. Nagra, AAG, Punjab.

Mr. Ketan Antil, Advocate,
for respondent No. 2.

Mr. Jitender K. Sehrawat, Advocate,
for respondent No. 3.

JAISHREE THAKUR, J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 26 dated 25.01.2017, registered under Sections 376 of the IPC and Sections 3 and 4 of the POCSO Act at Police Station Meharban, District Ludhiana, and all subsequent proceedings arising therefrom in view of the compromise entered into between the parties.

2. In brief, the facts are that respondent No. 2/complainant gave statement to the police that Kamaljit Singh @ Sonu, in connivance with Ms. Satya, w/o Satnam Singh, on 22.05.2016, committed rape upon her daughter at his house by threatening, blackmailing and making her obscene video, which led to the filing of the present FIR.

3. It is contended by the counsel for the petitioner that the matter has been compromised and the complainant did not want to pursue with the

proceedings initiated under the FIR in question, as the petitioner has got married with the prosecutrix on 24.02.2017 as per the Sikh rites and rituals. Certificate and photographs of the marriage have been annexed here as Annexures P-2 and P-3 evidencing their marriage.

4. The statement of the parties has been recorded before the Judicial Magistrate First Class at Ludhiana, wherein the parties have admitted to the factum of the compromise. Learned JMFC has also reported that compromise arrived at between the parties is without any pressure or coercion from any one and the same appears to be genuine one.

5. 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 non-compoundable 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.”

6. 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.”

7. In normal circumstances, this Court would not entertain a matter arising out of Section 376 IPC. In the instant case, the offence complained of is under Section 376 IPC and Sections 3 and 4 of the POCSO Act, which is an offence of grave nature. In the eyes of law, such offence is serious and non-compoundable and the Courts should not, in ordinary circumstances, interfere and quash the FIR that has been registered. However, while relying upon the ratios of the aforesaid judgments and keeping in view the fact that the petitioner has got married with the prosecutrix and they are residing happily together, this Court is of the

opinion that the prayer for quashing of the FIR registered under Section 376 IPC and Sections 3 and 4 of the POCSO Act, should be accepted. This would be in the interest and welfare of the married couple.

8. Consequently, in view of above, FIR No. 26 dated 25.01.2017, registered under Sections 376 of the IPC and Sections 3 and 4 of the POCSO Act at Police Station Meharban, District Ludhiana and all subsequent proceedings arising out of the same are quashed qua the petitioner.

9. The petition stands disposed of.

July 28, 2017
Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No