

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

Criminal Misc. No. M- 15625 of 2017(O&M)

Date of Decision: January 19 , 2018.

Sanjeev Kumar @ Sanju Masih

..... PETITIONER(s)

Versus

State of Punjab and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Kamlesh, Advocate for
Mr. Parminder Singh, Advocate
for the petitioner.

Ms. Monika Jalota, DAG, Punjab.

None for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.5 dated 19.01.2015 under Sections 363/366A/376 IPC and Sections 4/6 of the Protection of Children from Sexual Offences Act, 2012 (for short, the 'POCSO Act'), registered at Police Station Bhaini Mian Khan, District Gurdaspur including order dated 21.05.2016 passed by the learned Judicial Magistrate First Class, Gurdaspur and all other consequential proceedings arising therefrom.

It is submitted that no offence punishable under Sections 363/366A/376 IPC and Sections 4/6 of the POCSO Act is made out against the petitioner.

The abovesaid FIR was lodged by the father of the victim due to certain

misunderstandings. The petitioner and the complainant's daughter had friendly relations and they solemnized marriage on 16.01.2015. They have been blessed with a daughter on 10.11.2016. It is submitted that the petitioner and the daughter of the complainant are living peacefully in their matrimonial home alongwith their minor child. Moreover, the complainant/respondent No.2 has also accepted their marriage. The complainant's daughter, it is submitted, is now major, her date of birth being 11.11.1998. The matter was amicably resolved between the parties with the intervention of respectables and common friends, the terms of which were reduced into writing on 12.04.2017 (Annexure P5).

The facts as above are verified by learned counsel for the State, on instructions from ASI Shailender Singh. Affidavit 05.01.2018 submitted by the complainant's daughter Neha, filed in Court today, is taken on record subject to just exceptions.

This Court on 04.05.2017 directed the parties to appear before learned trial court/Illaq Magistrate for recording their statements in respect to the above-mentioned compromise. Learned trial court/Illaq Magistrate was directed to submit a report regarding the validity or otherwise of the compromise. Learned trial court was also directed to accept the bail bonds of the petitioner.

Pursuant to order dated 04.05.2017, the parties appeared before the learned Judicial Magistrate First Class, Gurdaspur and their statements were recorded on 17.05.2017. The complainant/respondent No.2 stated that he is a labourer. His daughter (the victim) accompanied the petitioner without informing them. FIR in question was registered at his instance. However, his daughter and the petitioner had solemnized marriage out of their own free will

and were blessed with a daughter. All differences between the parties have been sorted out and the matter has been resolved out of his own free will without any pressure. Statement of the complainant's daughter, the victim was also recorded. She revealed the facts as mentioned above. It is specifically stated by the complainant/respondent No.2 and his daughter (the victim) that they have no objection whatsoever in case the abovesaid FIR against the petitioner is quashed. Statement of the petitioner in respect to the settlement was recorded as well.

As per report dated 23.05.2017 received from the learned Judicial Magistrate First Class, Gurdaspur, satisfaction is expressed that the matter has been amicably resolved by the parties out of their own free will, without any kind of pressure and the compromise between the parties is genuine. It is mentioned that the petitioner and the complainant's daughter are residing together peacefully at their matrimonial home with the minor daughter.

Learned counsel for the State, on instructions from ASI Shailender Singh, has raised no serious objection to the quashing of the FIR in question as well as all consequential proceedings on the basis of a settlement arrived at between the parties.

Though, normally this Court would not interfere at this stage for quashing of an FIR registered under Sections 363/366A/ 376 IPC and Sections 4/6 of the POCSO Act, but keeping in view the fact that the victim i.e., the complainant's daughter and the petitioner are living together alongwith their minor child and that the complainant has also accepted the said marriage, it would be in the interest of justice to quash the abovementioned FIR alongwith consequential proceedings arising therefrom.

In **Kulwinder Singh and others versus State of Punjab and**

another 2007 (3) R.C.R. (Criminal) 1052, a five member Bench of this Court has observed as under:-

“The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Criminal Procedure Code is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is “finest hour of justice”.

Keeping in view the peculiar facts and circumstances of this case, it would be in the interest of justice to quash the abovesaid FIR as no useful purpose would be served by continuance of the present proceedings. It will merely lead to wastage of precious time of the court and would be an exercise in futility.

This petition is, thus, allowed and FIR No.5 dated 19.01.2015 under Sections 363/366A/376 IPC and Sections 4/6 of the POCSO Act registered at Police Station Bhaini Mian Khan, District Gurdaspur as well as order dated 21.05.2015 passed by the learned trial court alongwith all consequential proceedings are, hereby, quashed.

January 19 , 2018.
'om'

(LISA GILL)
JUDGE

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