

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

Crl. Misc. M-1722 of 2018 (O&M)
Date of Decision: March 01, 2018

Rajbir Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. K.D.S. Hooda, Advocate
for the petitioners.

Mr. P.P. Chahar, DAG Haryana.

Mr. Sandeep Malik, 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.7 dated 13.08.2017 registered under Section 376(2)(n) of Indian Penal Code at Police Station Women, Sirsa (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 13.08.2017 under Section 376(2)(n) of Indian Penal Code, in which it was stated by respondent No.2-complainant that she is doing the orchestra and also working in insurance company. She is having two children. She has a divorce case pending with her husband at courts at Jind. On 28th December, when she was going in bus from Jind

to Ratia, the petitioner-accused showed his interest in getting the insurance done and they exchanged their mobile numbers. After that they met number of times and thereafter, the petitioner-accused proposed the complainant to marry him and on this pretext, established physical relation with her at different places. After some time, the complainant came to know that the petitioner-accused is a married man. However, on the pretext that the petitioner-accused was having nude photographs of the complainant, he kept on having physical relations with the complainant, under threat of showing the said photographs to everyone.

3. After lodging of the FIR, the complainant herein entered into a compromise with the petitioner-accused and made a statement to the effect that the matter has been compromised. It is stated in the petition, that due to the misunderstanding the case 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 17.01.2018, 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 Chief Judicial Magistrate at Sirsa, wherein, a statement was made by the complainant that she 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 complainant is aged 30 years. She and the petitioner-accused came across each other and intimacy developed between them and they started living together and resided at different places. It is stated that due to some quarrel, the instant FIR came to be got lodged by complainant-respondent No.2. It is mentioned that both the petitioner-accused and complainant-respondent No.2 are living together. This court is of the opinion that in case, the proceedings are not allowed to be compromised, the complainant herself would be put to hardship as she would necessarily have to appear before the courts for recording of her statement.

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.7 dated 13.08.2017 registered under Section 376(2)(n) of Indian Penal Code at Police Station Women, Sirsa and all subsequent proceedings arising out of the same are quashed.

March 01, 2018

vijay saini

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes
Yes/No