

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

CRM-M No.19820 of 2017

Date of Decision: January 10, 2018

Mazhar Khan and another

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ishan Gupta, Advocate
for the petitioners.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana
for respondent No.1-State.

Mr. Briz Mohan, Advocate
for respondent No.2.

LISA GILL J. (ORAL)

Prayer in this petition is for quashing of FIR No.119 dated 30.09.2016 under Sections 376, 34 IPC registered at Police Station Amargarh, District Sangrur along with all subsequent proceedings arising therefrom on the basis of compromise dated 23.05.2017 (Annexure P-1).

It is submitted that no offence punishable under Section 376, 34 IPC is made out against the petitioners as marriage was solemnized between petitioner No.1 and respondent No.2 on 11.08.2016 by way of Nikah according to Mohammedan rites and ceremonies. The present FIR was registered due to certain misunderstandings which had occurred between petitioner No.1 and respondent No.2. In this view of the matter, it is submitted that the judgment of Hon'ble the Supreme Court in “*State of M.P. vs. Madanlal, 2015(3) SCC (Crl.) 287*” is not applicable to the facts and circumstances of the present case.

Report by way of an affidavit of Mr. Pawinder Singh Cheema, PPS, Deputy Superintendent of Police, Sub Division, Ahmedgarh, District Barnala in compliance of order dated 26.10.2017 on behalf of respondent No.1-State filed in Court today is taken on record subject to just exceptions. As per the said report, petitioner No.1 and respondent No.2 are verified to be living together at their matrimonial home since 11.08.2016.

Pursuant to order dated 30.05.2017, the parties appeared before the learned District & Sessions Judge, Sangrur and their statements were recorded on 20.07.2017. Respondent No.2 specifically stated that she solemnized marriage with petitioner No.1 by way of Nikah which was performed by Mohammad Bhalal. It is further stated that respondent No.2 is living with her husband at her matrimonial home and the settlement has been arrived at between the parties out of her own free will without any pressure or coercion and she does not wish any action to be taken against the present petitioners. Statement of the parents of respondent No.2, namely, Mumtaz Khan and Naseem Akhtar in respect of the settlement was duly recorded. It is specifically stated by both of them that the matter has been amicably resolved out of their own free will without any kind of pressure or undue influence. It is stated that their daughter is now living with her husband and in-laws in peace and harmony and they have no objection in case the above said FIR against the petitioners is quashed. Statements of the petitioners in respect of the settlement were recorded as well.

As per report dated 21.07.2017 received from the learned District & Sessions Judge, Sangrur, satisfaction is expressed that

compromise between the parties has been arrived at without any pressure. The complainant-respondent No.2, it is noted, is residing at the matrimonial home with her husband and in-laws.

Learned counsel for respondent No.2 reaffirms and verifies the factum of settlement between the parties. It is submitted that the FIR in question was registered due to certain misunderstandings between the parties. After solemnization of marriage, petitioner No.1 and respondent No.2 are residing together at their matrimonial home. Respondent No.2 has no objection in case the above said FIR against the petitioners is quashed.

Learned counsel for the State, in view of the peculiar circumstances of the case has not raised any serious objections to the quashing of this FIR.

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”.

Though the FIR in the present case was registered under Section 376 IPC, it is not in dispute that marriage has been solemnized between petitioner No.1 and respondent No.2. They are living together as husband and wife. In 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.119 dated 30.09.2016 under Sections 376, 34 IPC registered at Police Station Amargarh, District Sangrur along with all consequential proceedings arising therefrom on the basis of compromise (Annexure P-2) are, hereby, quashed.

January 10, 2018

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**(LISA GILL)
JUDGE**

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