

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

1. Criminal Misc. No.M- 21655 of 2016(O&M)
Date of Decision: February 21 , 2018.

Som Dass PETITIONER(s)

Versus

State of Punjab and others RESPONDENT (s)

2. Criminal Misc. No. M- 27051 of 2016(O&M).

Bhajan Lal PETITIONER(s)

Versus

State of Punjab and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashok Kumar Khunger, Advocate
for the petitioners.

Ms. Monika Jalota, DAG, Punjab.

Mr. Harpal Singh, Advocate
for respondents No.2 and 3.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This order shall dispose of CRM No.M-21655 of 2016 (Som Dass v. State of Punjab and others) and CRM No.M-27051 of 2016 (Bhajan Lal v. State of Punjab and others).

Prayer in both these petitions is for quashing of FIR No.40 dated 14.06.2016 under Sections 363/366A/376/342/506/34 IPC and Sections 3/4 of the Protection of Children from Sexual Offences Act, 2012 (for short, the 'POCSO Act'), registered at Police Station Khuian Sarwar, District Fazilka and all other consequential proceedings arising therefrom.

It is submitted that the petitioner – Som Dass and respondent No.3 – Sumitra Rani solemnized marriage on 13.06.2016 against the wishes of the complainant/respondent No.2 i.e., father of respondent No.3. They have thereafter been blessed with a child. It is submitted that the said petitioner as well as respondent No.3 are residing in peace and harmony in the matrimonial home alongwith their minor child. FIR in question was registered at the instance of respondent No.2 i.e., father of respondent No.3. It was alleged that his 17-1/2 year old daughter had been allured by petitioner – Som Dass on assurance of marriage. Petitioner-Bhajan Lal is alleged to have assisted Som Dass in alluring the victim. It is further submitted that respondent No.3 is now major. No offence punishable under Sections 363/366A/376/342/506/34 IPC and Sections 3/4 of the POCSO Act is made out against any of the petitioners. Learned counsel for the petitioners submits that the decision of the Hon'ble Supreme Court in **State of M.P. v. Madanlal, 2015(3) RCR(Criminal) 537** is not applicable in the facts and circumstances of the case as the petitioner-Som Dass and respondent No.3 have married each other and are living together in the matrimonial home alongwith their minor child. Moreover, the complainant/respondent No.2 has accepted their marriage and does not wish to continue with the proceedings in the said FIR. It is thus prayed that this petition be allowed.

This Court vide order dated 26.09.2017 directed the parties to appear

before the learned trial court/Illaqa Magistrate to record their statements in respect to the settlement. Learned trial court/Illaqa Magistrate was directed to submit a report regarding the genuineness of the compromise, as to whether it has been arrived at out of the free will and volition of the parties without any coercion, fear or undue influence. Learned trial court/Illaqa Magistrate was also directed to intimate whether any of the petitioners are absconding/proclaimed offenders and whether any other case is pending against them. Information was sought as to whether all affected persons are a party to the settlement.

Pursuant to order dated 26.09.2017, the parties appeared before the learned Judicial Magistrate First Class, Abohar on 26.10.2017. Respondent No.3 has affirmed the factum of her marriage with the petitioner-Som Dass as well as birth of a child. Respondent No.2 accepted the marriage of his daughter with the petitioner-Som Dass and expressed that he does not wish to continue the proceedings in the abovesaid FIR and stated that he has no objection in case the abovesaid FIR against the both accused petitioners is quashed. Joint statement of the petitioners Som Dass and Bhajan Lal in respect to the settlement were recorded as well.

As per reports dated 09.11.2017 submitted separately in both the cases by the learned Judicial Magistrate First Class, Abohar, it is expressed that the parties have compromised the matter out of their own free will without any kind of pressure. The compromise in question is stated to be genuine. None of the petitioners are reported to be proclaimed offenders. Statements of the parties are appended alongwith the said report.

Learned counsel for respondents No.2 and 3 reaffirms and verifies the factum of settlement between the parties. It is reiterated that none of the two

respondents wish to proceed with the present proceedings and have no objection to the quashing of the abovementioned FIR. It is reaffirmed and verified that petitioner – Som Dass and respondent No.3 – Sumitra Rani are living together in the matrimonial home alongwith the minor child.

Learned counsel for the State 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.

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”.

It is not in dispute that the petitioner – Som Dass and respondent No.3 have solemnized marriage. They are living together in peace and harmony since June 2016. A child has also been born out of this wedlock. Continuance of the present proceedings would indeed amount to denial of complete justice to the parties.

Keeping in view the 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 further lead to wastage of precious time of the court and would be an exercise in futility.

This petition is, thus, allowed and FIR No.40 dated 14.06.2016 under

CRM No.M-21655 of 2016 and a connected case

-5-

Sections 363/366A/376/342/506/34 IPC and Sections 3/4 of the POCSO Act, registered at Police Station Khuian Sarwar, District Fazilka alongwith all consequential proceedings are, hereby, quashed.

February 21 , 2018.		(LISA GILL)
'om'		JUDGE
	Whether speaking/reasoned:	Yes/No
	Whether reportable:	Yes/No