

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

CRM-M-23458-2016(O&M)

Date of decision : 05.10.2018

Sunil Kumar alias Sunny and another

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Varinder Basa, Advocate for the petitioners.

Ms.Ruchika Sabherwal, AAG, Punjab.

Mr.Vishal Sodhi, Advocate
for respondents No. 2 and 3.

GURVINDER SINGH GILL, J. (ORAL)

By way of filing this petition, the petitioners seek quashing of FIR No.28 dated 22.05.2015, registered under Sections 377/506 of Indian Penal Code, 1860 and Sections 3, 4 of Protection of Children from Sexual Offences Act, 2012('the POCSO Act' in short) at Police Station Dera Baba Nanak, Police District Batala, District Gurdaspur and all consequential proceedings emanating therefrom on the ground that matter has since been compromised amongst the parties.

Vide order dated 14.07.2016, the parties were directed to appear before the Illaqa Magistrate/trial Court so as to get their statements recorded qua the factum of compromise. Report of learned JMIC, Batala has been

received to the effect that statements of the parties through their guardians have been recorded as the petitioners as well as the victims are minors. While statement of the petitioner/accused Sunil Kumar alias Sunny has been

recorded through his father Sh.Chaman Lal as well as his mother Asha Rani, the statement of co-petitioner/accused Harpreet Singh alias Happy has been recorded through his father Joginder Singh and his mother Harjit Kaur. Similarly statement of victim Gurpreet Singh has been recorded through his father Kulwant Singh and his mother Sukhwinder Kaur and of victim Heera has been recorded through his grandmother Manjit Kaur who have all stated that they have compromised the matter with the intervention of respectables of the society out of their free will and that they do not wish to pursue the case. The learned JMIC, Batala has specifically opined that the compromise is genuine and has been effected voluntarily without there being undue influence and coercion.

Learned counsel for the petitioners submits that although the offences in question are not compoundable but keeping in view the tender age of the accused/petitioners and also in light of the law laid down by Full Bench of this Court in **2007(3) RCR (Crl.) 1052 Kulwinder Singh and others Vs. State of Punjab**, the petition may be allowed and the FIR be quashed.

On the other hand, learned State counsel has submitted that since serious offences including offences under Sections 3 and 4 of the POCSO Act are involved, therefore, the FIR should not be quashed merely on the basis of compromise.

I have considered the rival submissions addressed before this Court.

No doubt the offences involved in the present case are serious inasmuch as offences under Sections 3 and 4 of the POCSO Act are involved but another fact that needs to be borne in mind is that in the present case both the accused/petitioners are juveniles. In these circumstances the petitioners deserve to be given a chance to reform themselves rather to condemn them or to force them to face a trial especially when the parties have since compromised the matter, particularly when the complainant and victims belong to the same village and a compromise would help them maintain cordial relations in future rather than being at logger heads during their entire life.

In view of the aforesaid discussion and bearing in mind that the matter stands compromised, the petition is hereby accepted and FIR No.28 dated 22.05.2015, registered under Sections 377/506 of Indian Penal Code, 1860 and Sections 3, 4 of Protection of Children from Sexual Offences Act, 2012 at Police Station Dera Baba Nanak, Police District Batala, District Gurdaspur, and all consequential proceedings emanating therefrom are hereby quashed qua the petitioners.

(GURVINDER SINGH GILL)
JUDGE

05.10.2018
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No