

CRM-M-24532-2018 &
CRM-M-11295-2018

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

(1) CRM-M-24532-2018

Sunny

...Petitioner

Versus

U.T. of Chandigarh

...Respondent

(2) CRM-M-11295-2018

Pushpa and another

...Petitioners

Versus

State of U.T. Chandigarh and others

...Respondents

Date of decision:-29.8.2018

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.S.S. Sarwara, Advocate
for the petitioner(s).

Mr.Parveen Chauhan, Advocate for
Mr.Gagandeep S. Wasu, APP
for U.T. Chandigarh.

Mr.SPS Chakkal, Advocate
for respondents No.2 and 3 in
CRM-M-11295-2018.

H.S. MADAAN, J.

By this order, I shall dispose of two petitions i.e. CRM-M-

24532 of 2018 and CRM-M-11295-2018.

CRM-M-24532 of 2018 has been filed by petitioner - accused – Sunny for grant of regular bail in case FIR No.322 dated 9.10.2017 under Sections 342, 376, 506, 120-B IPC and Section 4 and 6 of POCSO Act, registered with Police Station Sector-31, Chandigarh.

Whereas CRM-M-11295 of 2018 has been filed by petitioners Pushpa and abovesaid Sunny for quashing of the abovesaid FIR and all the subsequent proceedings arising therefrom on the basis of compromise.

Briefly stated, facts of the case, as per prosecution version, are that FIR in question was lodged by the complainant (name not being mentioned to conceal her identity and referred to as *the prosecutrix*) daughter of late Sh.Kamaljeet Singh, resident of House No.339 Phase 1 Ram Darbar, Chandigarh aged about 17 years, wherein she stated that she has been residing with her paternal uncle Sonu; that she has studied up to 8th class from Government School Phase I, Ram Darbar and left studies about two years earlier; that mother of the complainant had contracted a marriage with younger brother of her deceased husband; that Sunny along with his brother and brother's wife had been residing on the first floor of their house. According to the complainant, she has been learning art of beautician and 2-3 months prior to the incident, petitioner – Pushpa, who is 'Bhabhi' of petitioner Sunny called her for doing facial; that when she was in the portion in occupation of family of Pushpa including Sunny, Sunny, who was hiding behind the door had locked the door. According to the complainant, when she asked from Pushpa as to why it had been so

done, then Pushpa asked the complainant to have sexual intercourse with Sunny and she would solemnize their marriage. As per the version of the complainant, when she raised hue and cry, then Pushpa increased sound volume of the television, then Sunny had forcible intercourse with her; that he threatened the prosecutrix that if she disclosed the incident to any one then he would kill her both brothers and father, as such the prosecutrix did not disclose the incident to anybody; thereafter she became pregnant; that the prosecutrix asked Sunny for marriage then, brother and Bhabhi of Sunny stated that they would perform the marriage after two months; that about two months before the complainant make the statement to the police, Bhabhi of Sunny asked the complainant to accompany her for the purpose of shopping; that the complainant accordingly went with her; that Pushpa made the complainant to consume a cold drink and thereafter the complainant became unconscious and Sunny and Pushpa got the foetus in the womb of complainant aborted; that on the next day, Sunny made a call to the complainant and told her that he would not marry with her; thereafter Sunny, his brother and Bhabhi Pushpa absconded. The complainant informed her mother and then accompanied by her mother and Sonu went to police station and lodged report there. Formal FIR was registered. Accused Sunny was arrested in this case. He had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge – cum – Judge, Special Court, Chandigarh vide order dated 20.4.2018, as such, he has approached this Court with the same request.

Notice of the petitions was given to respondent – State and

counsel representing the State has put in appearance.

I have given a thoughtful consideration to the rival contentions besides going through the record.

As far as CRM-M-24532-2018 filed by petitioner Sunny for regular bail is concerned, the allegations against him are indeed very grave and serious of having sexual intercourse with a poor minor girl by giving her allurements of marriage and in that criminal act, he was helped and assisted by his Bhabhi – Pushpa and when the prosecutrix became pregnant, they got the foetus aborted posing danger to her life. After completion of investigation, the challan has been filed against the accused, which is at the fag end inasmuch, it was fixed for 28.8.2018 for defence evidence. The guilt of the accused shall be determined during the trial. The apprehension expressed by the State counsel that if petitioner is granted bail, there is every likelihood to his absconding and even tampering with the prosecution evidence cannot be brushed aside lightly.

Therefore, CRM-M-24532-2018 stands dismissed.

As far as CRM-M-11295-2018 filed by the petitioners is concerned, they have moved this petition for quashing of FIR on the basis of compromise, notice of which has been issued to respondents. Respondents No.2 and 3 have put in appearance through counsel, who has stated that the matter in fact has been compromised between the parties. However, keeping in view the seriousness and gravity of the allegations, I do not find it a fit case to allow the quashing on the basis of compromise. Even otherwise, the trial is at the fag end and is likely to be concluded in near future. The petitioners can raise all the pleas before the trial Court by

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way of leading evidence in defence and putting up contentions during arguments. However, no ground for quashing of the FIR is made out.

Therefore, CRM-M-11295-2018 also stands dismissed.

29.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No