

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

CRM-M- 31253 of 2017 (O&M)

Date of Decision:23.02.2018

Pawan Kumar

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. M.S.Bajwa, Advocate
for the petitioner.

Mr. Kulbeer Singh, AAG., Punjab.

Mr.R.S.Sidhu, Advocate
for Mr. J.S.Mahal, Advocate
for respondents no.2 and 3.

LISA GILL, J(Oral).

Prayer in this petition is for quashing of FIR No.51 dated 26.03.2016, under Sections 363, 366 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Chherretta, District Amritsar City, along with all other consequential proceedings arising therefrom on the basis of compromise dated 03.07.2017 (Annexure P-3) arrived at between the parties.

It is submitted that no offence punishable under Section 363, 366 IPC and Section 6 of the POCSO Act, is made out against the petitioner as the petitioner and respondent no.3 i.e. daughter of respondent no,2, the complainant solemnized marriage on 15.06.2017. Respondent no.3, it is submitted is major. Moreover, the

matter has been amicably resolved between the parties and respondent no.2-complainant has also accepted this marriage. It is thus prayed that this petition be allowed.

This Court on 28.11.2017 directed the parties to appear before the learned trial court for recording of their statements in respect to the above-mentioned compromise. Learned trial court 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 was also directed to intimate whether the petitioner is absconding/proclaimed offender and whether any other case is pending against him. Information was sought as to whether all affected persons are a party to the settlement.

Pursuant to order dated 28.11.2017, the parties appeared before the learned Judicial Magistrate Ist Class, Amritsar, on 22.12.2017. Respondent No.3, the victim stated that she solemnized the marriage with the petitioner out of her own free will on 15.06.2017 and mentioned her date of birth to be 20.03.1999. It is stated that she has no objection to the quashing of the aforementioned FIR against the petitioner in view of the compromise arrived at between the parties.

Respondent no.2 stated that the matter has been amicably resolved between the parties out of her own free will and consent, without any kind of pressure or coercion. It is specifically stated that respondent no.2 has no objection to the quashing of the aforementioned FIR against the petitioner. Statement of ASI

Harjinder Singh, was recorded as well.

As per report dated 17.02.2018, received from the learned Judicial Magistrate Ist Class, Amritsar, satisfaction is expressed that the compromise between the parties is genuine, arrived at out of the free will of the parties, without any pressure, coercion or undue influence. Petitioner is not reported to be a proclaimed offender.

Learned counsel for respondents No.2 and 3 affirms and verifies the factum of settlement between the parties as well as marriage of the petitioner with respondent no.3. It is confirmed that the petitioner and respondent no.3 are living together in peace and harmony in the matrimonial home. Respondent no.2 has accepted the said marriage. It is reiterated that respondents no.2 and 3 have no objection to the quashing of the above-mentioned FIR against the petitioner.

Learned counsel for the State, on instructions from ASI Harjinder Singh, verifies that the petitioner and respondent no.3 are now living together in the matrimonial home and has not raised any serious objection to the quashing of this FIR 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”.

This Court would otherwise be hesitant to quash an FIR under Sections 363, 366 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012, in normal circumstances, merely on the basis of a compromise but in the present case there is no dispute that the petitioner and respondent no.3 solemnized marriage and are residing together as husband and wife since 15.06.2017. Respondent no.3, has since attained majority. The complainant-respondent no.2. i.e. father of respondent no.3 has accepted this marriage. The parties wish to live in peace and harmony. Continuance of the proceedings in this situation would 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 above-said 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.51 dated 26.03.2016, under Sections 363, 366 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Chherretta, District Amritsar City, along with all consequential proceedings are, hereby, quashed.

23.02.2018

s.khan

**[LISA GILL]
Judge**

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