

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

Crl. Misc. M-44582 of 2017 (O&M)
Date of Decision: January 11, 2018

Raman Kumar and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Surinder Thakur, Advocate
for the petitioners.

Mr. A.S. Sandhu, Addl. AG Punjab.

Mr. M.S. Bajwa, Advocate
for respondents No.2 and 3.

JAISHREE THAKUR, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.04 dated 08.01.2015 registered under Sections 363, 366-A, 120-B, 376 of Indian Penal Code at Police Station City Hoshiarpur (Annexure P/2) and all subsequent proceedings arising therefrom in view of the compromise (Annexure P/3).

2. In brief, the facts of the case are that the instant FIR came to be registered on 08.01.2015 on the statement of Smt. Seema that on 05.01.2015 her daughter Priyanka had gone to her school, but she did not return back home. They had been searching for her in their relations, but they could not find her. It was mentioned by the complainant that some unknown person had enticed away her daughter on the pretext of marriage.

3. After lodging of the FIR, the complainant herein made a statement to the effect that the matter has been compromised. It is stated in the petition that petitioner No.1 had love affair with respondent No.3 Priyanka, daughter of the complainant. Since the family members of the girl were not agreed for their marriage, the couple solemnized run away marriage on 12.01.2015 and also sought protection to their life and liberty by way of Crl. Misc. M-1334 of 2015, which petition was disposed of on 14.01.2015 and Senior Superintendent of Police, District Hoshiarpur was directed to take necessary steps to protect the life and liberty of petitioner No.1 and respondent No.3 herein. It is mentioned that now with the intervention of respectable and common friends of both the parties, the complainant has agreed to accept the relation with petitioner No.1's family. It is prayed that the FIR and all other proceedings taken thereafter be quashed in order to bring an end to the litigation between the parties. Based on the said compromise, the instant quashing petition was filed.

4. By an order dated 27.11.2017, the parties were directed to appear before the trial court so that their statement could be recorded regarding the genuineness of the compromise. The parties appeared before the Addl. Sessions Judge at Hoshiarpur wherein, statements were made by the complainant and her daughter that they did not want to pursue the FIR.

5. In normal circumstances, the Court would not entertain a matter when the non compoundable offences are heinous and serious in nature. In the instant case, the offence complained of is under Section 376 IPC which is an offence of grave nature. This court is aware of the fact that time and again it has been held that an offence under Section 376 IPC is a grievous

offence and considered as an offence against the society at large and thus, such matters should not be compromised. In the eyes of law, the offence of rape is serious and non-compoundable and the Courts should not in ordinary circumstances interfere and quash the FIR that has been registered.

6. In the instant case, a reading of the record would show that petitioner No.1 and respondent No.3 had an love affair and since the family members of respondent No.3 were not agreed to get them married, they performed a marriage against the wishes of their parents and also sought protection for their life and liberty from this court. It was when respondent No.3 run away with petitioner No.1, the instant FIR came to be lodged by respondent No.2, mother of respondent No.3. It is thereafter that a compromise has been arrived at between the parties on 09.11.2017 Counsel for the parties informed this court that petitioner No.1 and respondent No.3 are residing happily as husband and wife. This court is of the opinion that in case, the proceedings are not allowed to be compromised, complainant and her daughter themselves would be put to hardship as they would necessarily have to appear before the courts for recording of their statement and under these circumstances, continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak as the young prosecutrix is residing happily as wife of petitioner No.1.

7. In a judgment rendered by the Hon'ble Supreme Court in ***Narinder Singh and others vs. State of Punjab and another, 2014(6) SCC 466***, the Hon'ble Apex Court has laid down certain principles and guidelines which should be kept in mind while quashing of FIRs pertaining to non compoundable offence. For ready reference paragraphs No. 29.2 and

29.5 are reproduced as under :-

“29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure :

(i) ends of justice, or

(ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case.”

8. Even in a judgment rendered by the Hon'ble Supreme Court in ***Madan Mohan Abbot vs State Of Punjab, 2008 (4) SCC 582***, it has been held that it is advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings. Relevant paragraph of the said judgment is reproduced herein below :-

“5. It is on the basis of this compromise that the application was filed in the High Court for quashing of proceedings which has been dismissed by the impugned order. We notice from a reading of the FIR and the other documents on record that the dispute was purely a personal one between two contesting parties and that it arose out of extensive business dealings between them and that there was absolutely no public policy involved in the nature of the allegations made against the accused. We are, therefore, of the opinion that no useful purpose would be

served in continuing with the proceedings in the light of the compromise and also in the light of the fact that the complainant has, on 11th January 2004, passed away and the possibility of a conviction being recorded has thus to be ruled out.

6. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

9. Even in the judgment rendered in ***Gian Singh vs State of Punjab & Anr, reported as 2012(10) SCC 303*** the basic principle of law as laid down is that where offences are purely private in nature and do not concern public policy, the power to quash proceedings involving non-compoundable offences on the basis of compromise can be exercised.

10. Therefore, while relying upon the ratios of the aforesaid judgments, this Court is of the view that the compromise which has been entered into for quashing of an offence under Section 376 IPC on the basis of the compromise should be accepted. As has been held in ***Narinder Singh & Ors.*** case (supra) those cases where a settlement is arrived at immediately after the alleged commission of the offence the High Court may be liberal in accepting the settlement to quash the criminal proceedings.

11. Consequently, keeping in view the peculiar facts and circumstances of the present case and in view of the above ratios of law, this

petition is allowed and the FIR No.04 dated 08.01.2015 registered under Sections 363, 366-A, 120-B, 376 of Indian Penal Code at Police Station City Hoshiarpur and all subsequent proceedings arising out of the same are quashed.

January 11, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No