

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

CRM-M-48320-2017(O&M)

Date of decision:-9.8.2018

Pardeep and others

...Petitioners

Versus

State of Haryana and others

...Respondents

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

Present : Mr.Shailender Singh, Advocate
for the petitioners.

Mr.Gaurav Bansal, AAG, Haryana.

Mr.Arun Gupta, Advocate
for respondents No.2 and 3.

H.S. MADAAN, J.

Briefly stated, facts of the case as per prosecution story are that complainant Ritu d/o late Sh.Surjeet Singh, resident of VPO Naguran, District Jind had submitted a written complaint addressed to SHO, Women Police Station, Jind seeking registration of a case of rape against Pardeep s/o late Ishwar Singh, *inter alia* stating that she was married to Pankaj son of late Ishwar Singh, resident of village Jalalpur Kalan, District Jind, whereas sister of complainant is married to

Pardeep, an elder brother of Pankaj; that both the sisters have got a son each. In the complaint, it is alleged that Pardeep was having an evil eye on the complainant and on the intervening night of 16/17 June, when Pankaj had gone to fields for irrigation purpose and complainant was sleeping in her room on first floor of the house, then Kitabo Devi, mother-in-law of complainant came upstairs and got opened the door of the room, thereafter, Pardeep entered in the room and had forcibly sexual intercourse with the complainant against her wishes and after that he went away therefrom giving threats to kill the complainant. According to the complainant, she had told her mother-in-law that she had not done good thing with her but to no effect; that when Pankaj – husband of the complainant returned home, the complainant narrated the incident to him but he rather threatened the complainant to keep quiet and not to disclose this to any one, otherwise he would kill her; that the complainant remained silent and subsequently, she had moved the written complaint.

After registration of the FIR, the matter was investigated. Accused were arrested in this case. Thereafter, the parties have said to have entered into compromise.

A petition under Section 482 Cr.P.C. for quashing of FIR No.50 dated 11.8.2016, under Sections 376/498-A/34/506 IPC, Police Station Women, Jind along with further proceedings arising therefrom, has been filed on the basis of compromise, notice of which was given to the respondents, who put in appearance.

Thereafter, vide order dated 9.3.2018, the trial Court was directed to record statements of accused and affected persons and then to

send report to this Court. Learned District & Sessions Judge, Jind has accordingly send the report along with statements recorded.

I have heard learned counsel for the parties besides going through the record.

Though as per various decisions of the Hon'ble Apex Court and by a Co-ordinate Benches of this Court, compounding of offences in matrimonial disputes is normally allowed. A dispute which are normally for the offences under Section 406 IPC i.e. criminal breach of trust with regard to dowry articles of the wife and Section 498-A IPC relating to the offence of treating the wife with cruelty in connection with demand of dowry, are said to be somewhat personal in nature. But when it comes to offence under Section 376 IPC, which is a very serious offence, rather it is an offence against the society, the culprit cannot be allowed to be let off in the garb of resolution of a matrimonial dispute in an amicable way. As stated the complainant and her sister had filed the petitions for divorce with mutual consent. Though in majority of the cases, this Court may quash the proceedings where parties settled their matrimonial dispute but in the instant case, I do not find it proper to exercise inherent power so as to quash the FIR for the offence under Section 376 IPC. There are serious allegations of rape against Pardeep with Katabo Devi and Pankaj abetting the same. Therefore, I find that it is not a fit case to exercise power under Section 482 Cr.P.C. and to allow the parties to get the FIR and other ancillary proceedings quashed keeping in view the seriousness of allegations discussed above. It is stated that after completion of investigation, challan has been filed and the trial has started. The guilt of the accused shall be determined during the trial.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

9.8.2018

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No