

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

**CRM-M-49679-2017
Decided on: 14.08.2018**

Nitesh

.... Petitioner

Versus

State of Haryana and another

..... Respondents

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

Present: Mr. Rajender Kumar, Advocate,
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. H.P.S. Chopra, Advocate,
for respondent No.2.

H.S. MADAAN, J (ORAL)

Petitioner – Nitesh has brought the instant petition under Section 482 Cr.P.C. for quashing of FIR No.33 dated 05.05.2017, for offences under Sections 376 and 506 of IPC, registered at Women Police Station, Yamuna Nagar, District Yamuna Nagar, against him, alongwith consequential proceedings arising therefrom, on the basis of compromise, stated to have been effected between him and complainant Kavita Rani - arrayed as respondent No.2.

When the petition came up for hearing on 22.12.2017, notice of motion was ordered to be issued. Respondent No.2 through Mr. H.P.S. Chopra, Advocate, had put in appearance. Then in light of the contention that parties have since effected compromise, they were directed to put in appearance before the trial Court to get their statements recorded with regard to compromise and the trial Court was directed to send a report to this Court.

Report has been received from Additional District and Sessions Judge, Yamuna Nagar, through District and Sessions Judge, Yamuna Nagar, in terms of which complainant Kavita Rani and accused Nitesh had appeared there and their statements were recorded, in terms of which they have admitted to have entered into a voluntary compromise, with free will, without any pressure, coercion or undue influence. Further complainant has stated that she has no objection if the FIR in question is quashed by this Court. There is nothing on record to doubt the genuineness of the compromise so arrived at between the parties. It has been reported that no accused has been declared proclaimed offender in the FIR in question. Alongwith the report statement of the complainant and the accused, in original, have been annexed.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

The dispute between the parties has been resolved amicably, which appears to have been arrived at between them voluntarily without any threat or coercion and in terms of ratio of the authority reported as **Kulwinder Singh and others vs. State of Punjab and others** 2007 (3) RCR (Criminal) 1052, where in para 28, it has been held 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 Cr.P.C. 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*”.”

It has been observed that High Court has power to quash prosecution in order to achieve ends of justice and to prevent abuse of process of law. Though such powers are unlimited but those are to be exercised sparingly and with utmost care and caution. Though there is no statutory bar which can effect the inherent power of High Court under Section 482 Cr.P.C.

As it comes out from the record, the petitioner and complainant were involved in an affair, though feeling a little apprehensive complainant Kavita Rani had lodged FIR against the petitioner and others. The marriage has since been performed between two of them as is evident from their statements recorded in the trial Court and as stated both of them are resided together and leading a happy married life. During the trial, statement of Shanti Devi mother of Kavita Rani has been recorded wherein she stated that accused Nitesh was regular visitor to the house of her daughter Kavita Rani and he used to assure her that he would marry her. In her cross-examination, she stated that Kavita Rani is in relationship with the accused. Kavita Rani aged about 37 years get her statement recorded as PW5. In her cross examination, she stated that she got married with Nitesh on 6.8.2017 in a temple situated at Panchkula and thereafter she and Nitesh had moved a petition seeking protection from High Court at Chandigarh. She stated that presently, she is residing with accused Nitesh as his wife and she had made physical relation with the accused as per her will. Therefore, it is doubtful as to whether conviction of accused could be sustainable for offence under Sections 376 and 506 IPC.

To enable the spouses to lead happy married life, the compromise is in interest of peace and tranquility in the society and for such

like reasons this Court can quash the FIR and ancillary proceedings exercising power under Section 482 Cr.P.C., it appears to be a fit case to exercise such powers.

Accordingly, the petition is allowed and the abovesaid FIR alongwith ancillary proceedings are hereby quashed.

(H.S. MADAAN)
JUDGE

14.08.2018

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No