

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

Crl. Misc. M-9091 of 2017 (O&M)
Date of Decision: January 24, 2018

Pardeep Singh @ Pardeep Kumar and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Deepak Arora, Advocate
for the petitioners.

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

JAISHREE THAKUR, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.78 dated 01.08.2016 registered under Sections 363, 376, 120-B of Indian Penal Code at Police Station Lambra, Jalandhar (Annexure P/1) 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 01.08.2016 under Sections 363, 376, 120-B of Indian Penal Code, in which it was stated by respondent No.2-complainant that Kamla, Lal Chand, Rano and Amandeep allured her to perform marriage with Pardeep Singh, but she replied that she will not perform marriage without the consent of her parents. But despite that, about one month ago, Pardeep Singh without her consent forcibly committed rape upon her at the instance

of Kamla and Amandeep Kaur and also took her obscene photographs. They threatened the complainant that if she will disclose this incident to anyone, they will upload her obscene photographs on internet and because of this fear, she remained silent. However Pardeep Singh, by calling her to the house of Amandeep Kaur and Kamla, had been committing rape on her by giving threats. It was mentioned that on 06.07.2016, the petitioners-accused in connivance with each other enticed the complainant to perform marriage and took her original documents and photographs. Thereafter on 08.07.2016, Amandeep Kaur took the complainant to her house, where all the accused persons were already present and under the threat of publishing her obscene photographs public, they took the complainant to the house of Pardeep Singh, where he again forcibly committed rape upon her. It is stated that when the accused persons came to know that parents of the complainant and other villagers came to know about this incident of kidnapping her, the accused persons, while leaving her outside the Police Station Maqsudan, Jalandhar, fled away from there.

3. After lodging of the FIR, the complainant herein made a statement to the effect that she has compromised the matter. It is stated in the petition that the complainant was in love with Pardeep Singh and relations between the two were consensual in nature. It is also mentioned that due to the misunderstanding, the case FIR was lodged by the complainant. 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 12.07.2017, 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 Judicial Magistrate, Ist Class at Jalandhar wherein, a statement was made by the complainant that she 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 FIR would show that the complainant was a young lady of 20 years and petitioner No.1-Pardeep Singh was a young man of 21 years. Petitioner No.1 used to visit the house of his father's sister (Bua), where he and complainant came into contact with each other. In the compromise (Annexure P-3) entered into between the parties it is stated that the instant FIR has been got lodged by the complainant due to some misunderstanding and now that misunderstanding has been removed. It is also stated in the compromise that in order to maintain peace and harmony, the village Panchayat has intervened into the matter and got the matter compromised. It is also agreed between the parties that they will not file any civil or criminal case against each other in

future and will reside peacefully in future. Even during the course of proceedings in this court, complainant-respondent also furnished an affidavit before this court that the matter stands compromised between the parties with the intervention of respectable persons of the village, because both the parties are resident of same village and locality. Counsel for the petitioner submits that after entering into compromise, both the parties are living peacefully and have no grudge against each other. This court is of the opinion that in case, the proceedings are not allowed to be compromised, the complainant herself would be put to hardship as she would necessarily have to appear before the courts for recording of her statement and it will disturb the atmosphere of the village and locality, as both the parties are resident of the same village and locality.

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 noncompoundable 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.78 dated 01.08.2016 registered under Sections 363, 376, 120-B of Indian Penal Code at Police Station Lambra, Jalandhar and all subsequent proceedings arising out of the same are quashed.

January 24, 2018

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(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes/No