

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

CRM-M-6392 of 2019.

Decided on:- May 09, 2019.

Deep Sharma @ David.

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Pawan Kumar Hooda, Advocate
for the petitioner.

Ms. Priyanka Sadar, A.A.G., Haryana.

Ms. Geeta Rani, Advocate
for respondents No.2 and 3.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.103 dated 23.11.2018 under Sections 323 and 506 read with Section 34 IPC, Section 10 of the Protection of Children from Sexual Offences Act, 2012 and Section 25 of the Arms Act, 1959 registered at Women Police Station, Manesar, District Gurugram (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of mutual settlement/compromise dated 16.12.2018 (Annexure P-2) effected between the parties.

This Court vide order dated 13.02.2019 had directed the parties to appear before the Illaqa Magistrate/trial Court to get their respective

statements recorded with regard to compromise and the Court was directed to send its report qua genuineness of the compromise.

Pursuant to the aforesaid order, the petitioner as well as respondent No.2-complainant and respondent No.3, who is daughter-in-law of respondent No.2 have appeared before learned Additional Sessions Judge, Gurugram and got their statements recorded on 26.02.2019. On the basis of the statements so recorded by the parties, learned Additional Sessions Judge has submitted the report dated 07.03.2019 to the effect that the parties have arrived at a compromise out of their own free will. They have made their statements without any pressure or coercion. The compromise is genuine and voluntary in nature.

The FIR in question has been recorded on the basis of statement of respondent No.2-complainant Roop Chand. His statement made before learned Additional Sessions Judge, Gurugram on 26.02.2019 in support of the compromise reads as under:

“Stated that on dated 21.11.2018 at about 7.30/8.00 P.M. I along with my grandson Gourav and grand-daughters Aarti, aged about 16 years and Pooja aged about 12 years went for a walk after dinner meanwhile one car came and suddenly Pooja and Aarti came in front of car while playing and one case was registered against the accused Deep Sharma. The FIR No.103 dated 23.11.2018 u/s 323, 506/34 IPC & 10 POCSO Act and 25 Arms Act was lodged by me under misconception, now I have verified from my grand-daughters and it has come in my knowledge that with intention to save the life of my grand-daughters the accused hold the hand of my grand-daughter in order to get out her of the way and his intentions was not malicious. We and accused are living peacefully in the village

and there is no ill-will between us and that I and my family has no grudges against the accused and we do not want any further litigation in the present case. I and my family have no objection if the Hon'ble court allows the quashing petition filed by the accused.

It is further stated that, a compromise had taken place between us on 16.12.2018 in the presence of respectable of the village and that an affidavit was also executed by me in this regard on 26.11.2018. I have entered into compromise and executed the affidavit out of my own free will without any pressure and coercion.”

Similar statement was also made by respondent No.3 Rajnesh, who is daughter-in-law of respondent No.2-complainant Roop Chand before learned Additional Sessions Judge on 26.02.2019.

Learned State counsel and learned counsel for respondents No.2 and 3 have also not disputed the factum of compromise effected between the parties.

In view of the above, continuation of the proceedings before the trial Court in the instant FIR qua the petitioner shall be an abuse of the process of law.

Thus, following the principles laid down by the Full Bench judgment of this Court in ***Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052*** and approved by the Hon'ble Supreme Court in ***Gian Singh Versus State of Punjab and others (2012) 10 SCC 303***, the present petition is allowed and the FIR No.103 dated 23.11.2018 under Sections 323 and 506 read with Section 34 IPC, Section 10 of the Protection of Children from Sexual Offences Act, 2012 and Section 25

of the Arms Act, 1959 registered at Women Police Station, Manesar, District Gurugram (Annexure P-1) and all consequential proceedings arising therefrom are quashed qua the petitioner on the basis of mutual settlement/compromise dated 16.12.2018 (Annexure P-2) effected between the parties, however, subject to payment of costs of Rs.5,000/- to be paid by the petitioner to the Poor Patients' Welfare Fund of the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh within a period of one month from today.

May 09, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No