

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

265

CRM-M-35106-2018

Date of Decision:16.10.2019

Amrik Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

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

**Present: Mr. Neeraj Madaan, Advocate,
for the petitioners.**

**Mr. Saurav Khurana, DAG, Punjab,
for respondent No.1.**

**Mr. Sandeep Singh, Advocate for
Mr. Gurbir Singh Pannu, Advocate,
for respondent No.2.**

HARI PAL VERMA, J.(Oral)

Petitioners who are the husband and in-laws of respondent No.2-Paramjeet Kaur have filed the present petition for quashing of FIR No.106 dated 05.07.2018 under Sections 376, 120-B IPC, registered at Police Station Guruharsahai, District Ferozepur(Annexure P-1) and all the consequential proceedings arising therefrom on the basis of compromise dated 07.08.2018(Annexure P-2).

The aforesaid FIR was registered at the behest of complainant-respondent No.2 with the allegation that the complainant has studied upto 10+2 and her father is a labourer. Petitioner No.1 is residing in her neighbourhood and three years back, he established physical relations with

her on the pretext of marriage. However, when the complainant asked him to perform marriage, the petitioner refused to do so. Petitioner Nos.2 and 3 were in the knowledge of physical relations between the parties and initially, they assured the complainant that they will perform her marriage with petitioner No.1. However, now in a well-planned conspiracy, they refused to perform marriage despite the fact that father of the prosecutrix had made repeated requests to the petitioners that they should perform marriage of petitioner No.1 with respondent No.2. The petitioners have thrown out the father of the complainant from their house after insulting him. On 10.06.2018, petitioner No.1 firstly took the prosecutrix to Faridkot and thereafter, they went to Amritsar. She was taken in a hotel at Amritsar, where they stayed for a night and the petitioner raped the complainant for two times. On 11.06.2018, they reached Faridkot from Amritsar, where the complainant asked him that they must perform marriage. But petitioner No.1 left her at bus stand Faridkot from where she had gone to her maternal aunt(Massi) Jaswinder Kaur, where she stayed for a night and thereafter, she left the complainant in village Aliyana. On 14.06.2018, she returned back to her village, where she narrated the whole story to her father Gurmukh Singh.

Learned counsel for the petitioners has argued that the parties have solemnized marriage on 25.07.2018 and a compromise has been arrived at between them. The respondent No.2 has given an affidavit dated 07.08.2018, wherein she has stated that the parties have solemnized marriage on 25.07.2018 with their free will and consent and now both are living happily as husband and wife. She has no grudge against the accused persons named in the FIR.

Learned counsel for the complainant-respondent No.2 admits the very factum of compromise. However, he states that the parties are staying together as husband and wife and there were some communication gap between them and it is on account of some misunderstanding, the FIR was registered, however, she has no objection in case FIR is quashed.

Learned State Counsel, on instructions from ASI Gurcharan Singh, submits that the police has conducted the investigation in the case and did not find any substance in the FIR, rather after thorough investigation, cancellation report has been prepared which was submitted to the court. However, the same was not accepted by the trial court.

This Court vide order dated 04.09.2018 had directed the parties to appear before the Illaqa Magistrate/trial Court to get their statements recorded and the learned Magistrate was directed to send its report qua the genuineness of the compromise.

Pursuant to the aforesaid order, parties have appeared before learned Sub Divisional Judicial Magistrate, Guruhar Sahai and got their statements recorded. On the basis of the statements so recorded, learned Magistrate has submitted report dated 03.10.2018 to the effect that the parties have voluntarily entered into a compromise and the same is genuine one.

Respondent No.2-complainant, namely, Paramjeet Kaur, has made a statement with regard to compromise before learned Magistrate on 03.10.2018. The same is reproduced as under:-

“Stated that I have got registered FIR no.106 dated 05.07.2018 under Section 376, 120-B IPC, P.S. Guiruharsahai, against Amrik Singh, Kashmir Bai and Surinder Singh. Now I solemnized the marriage with petitioner No.1 i.e. Amrik Singh

on 25.07.2018 with my free consent and will and now I am living happily with petitioner No.1 as his wife. Our above said marriage is a run away/love marriage against the wishes of my parents. I lodged the present FIR against the above said persons at the instance of my father Gurmukh Singh.

I have compromised the matter with above named petitioners/accused because I got marriage with petitioner No.1 i.e. Amrik Singh and now I am residing with him my in-laws home. I have effected compromise with my free will and without any kind of coercion, undue influence and pressure. I want to live in peace and harmony and to bury all their differences. I have no objection if the FIR registered in the present case is quashed. I have produced the copy of my Aadhar Card as Mark-A.”

Heard learned counsel for the parties.

Present is a case where the parties came into contact with each other three years back i.e. in the year 2015. The matter has been compromised between the parties and in support thereof, respondent No.2 has submitted an affidavit dated 07.08.2018. They are staying together as husband and wife as marriage between the parties was solemnized on 25.07.2018.

Considering the fact that the parties were major, they were known to each other for the last about three years, coupled with the fact that the police has conducted the investigation and rather prepared the cancellation report though the same has not been accepted by the trial court, this Court finds that chances of conviction are bleak as the prosecutrix is not going to support the case of the prosecution as she is already married with the petitioner and staying as his wife. No medical evidence has been produced on record to establish the allegation of rape. Specific question is

put to the learned State Counsel as regard medical evidence, however, on

instructions from the investigating officer, learned State Counsel fairly states that no medical was conducted in the case.

Parties are knoww to each other since the year 2015 and now they are staying together as husband and wife. In the absence of any medical evidence, and cosidering the cancellation report prepared by the police, this Court having recourse to Section 482 Cr.P.C. and to meet the end of justice finds that the present FIR deserves to be quashed.

Accordingly, the present petition is allowed, however, subject to payment of costs of ₹10,000/- to be paid by the petitioners, within a period of one month from today with the Poor Patients' Welfare Fund of **Post Graduate Institute of Medical Education and Research, Chandigarh.**

October 16, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No