

279.

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

CRM-M-37198-2018

Date of decision: 23.10.2019

RIMPY @ RIMPA SINGH

... Petitioner

versus

STATE OF PUNJAB AND ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Digvijay Nagpal, Advocate,
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab,
for respondent No.1.

Mr. Lovepreet Handa, Advocate,
for respondent No.2.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of F.I.R. No.04 dated 23.01.2009 registered under Sections 376, 511, 451, 506 of IPC at Police Station Sadar Malout, District Muktsar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise and affidavit dated 17.08.2018 (Annexures P-2 & P-3).

Counsel for the petitioner has argued that the aforesaid FIR was registered at the behest of the prosecutrix. As per the FIR, on 20.01.2009 her husband left the house at about 9.00 PM after giving water to the field and her father-in-law Jasmail Singh was in the field to protect the orchard. She was sleeping in her room along with her son and in the adjoining room, her mother-in-law Chhinder Kaur and her brother-in-law Ranjit Singh, aged

about 11 years, were also sleeping. At about 1.00 O'clock during night, the petitioner entered into her room and laid on the bed along with the prosecutrix. He started molesting her and opened the tag (*nara*) of her lower (*salwar*) and forcibly tried to commit rape with her. When the prosecutrix tried to shout, the petitioner threatened her that if she shout, then he will kill her. When the prosecutrix made a loud noise and shouted for help, her mother-in-law and brother-in-law came into her room and in the meanwhile, the petitioner fled away from the house.

Counsel for the petitioner has argued that apart from the fact that the matter has been compromised between the parties and the prosecutrix has signed the compromise deed and affidavit dated 17.08.2018 (Annexures P-2 & P-3) in support of the compromise, the police has investigated the matter and has prepared cancellation report. He submits that in fact no rape was committed. At the most, the allegation against the petitioner is that he has tried to commit rape by entering into the house of the prosecutrix.

Reply has already been filed on behalf of respondent No.1-State. As per the reply, the allegation against the petitioner is that he gave beatings to the complainant and tried to commit rape upon her by entering into the house. However, during enquiry, the allegations made in the FIR were found false and accordingly, the police prepared a cancellation report and submitted the same before the Magistrate on 06.12.2018, but the same was not accepted by the learned Magistrate and warrant of arrest were issued against the petitioner for 01.05.2019.

This Court, vide order dated 11.07.2019, 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 Judicial Magistrate Ist Class, Malout and got their statements recorded. On the basis of the statements so recorded, learned Magistrate has submitted report dated 19.09.2019 to the effect that the compromise is genuine and has been effected between the parties voluntarily and without any coercion or undue influence.

Respondent No.2-complainant has made her statement with regard to compromise before learned Magistrate on 19.08.2019. The same is reproduced as under:-

“Stated that FIR No.04 dated 23.01.2009 U/S 376, 511, 451, 506, 323 of IPC, PS Sadar Malout was registered against Rimpay @ Rimpa Singh son of Dalour Singh, R/o Village Urrang, Tehsil Malout, District Sri Muktsar Sahib, on my statement. Now the matter has been compromised with the intervention of the respectables amicably. The compromise has been effected voluntarily, without undue influence, any coercion, fraud or misrepresentation and with the free will of the parties. I have no objection if the FIR No.04 dated 23.01.2009 U/S 376, 511, 451, 506, 323 of IPC, PS Sadar Malout and further proceedings, is quashed.”

Counsel for the complainant has not disputed the factum of compromise between the parties.

I have heard counsel for the parties.

There is no allegation for commission of offence of rape against the petitioner and at the most the allegation is that he tried to commit the offence of rape. There is no such medical on record. The matter has been compromised between the parties. The police has conducted detailed investigation and did not find anything against the petitioner regarding commission of offence of rape. Accordingly, cancellation report has been prepared, which has been submitted to the learned Magistrate.

In view of above, the present petition is allowed and F.I.R. No.04 dated 23.01.2009 registered under Sections 376, 511, 451, 506 of IPC at Police Station Sadar Malout, District Muktsar (Annexure P-1) and all subsequent proceedings arising therefrom are quashed qua the petitioner on the basis of compromise and affidavit dated 17.08.2018 (Annexures P-2 & P-3), however, that would be subject to payment of costs of Rs.10,000/- to be deposited with the Government Medical College and Hospital, Sector 32, Chandigarh, within one month from today, which shall be spent on the treatment of poor patients within the knowledge of Medical Superintendent.

(HARI PAL VERMA)
JUDGE

23.10.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No