

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

CRM-M-42998 of 2017.

Decided on:- October 22, 2019.

Jagjit Singh.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

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

Present:- None for the petitioner.

Mr. Sukhbeer Singh, A.A.G., Punjab.

None for respondent No.2.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.115 dated 30.07.2017 under Sections 376-B, 377 and 506 IPC registered at Police Station Nihal Singh Wala, District Moga (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise dated 01.11.2017 (Annexure P-2).

The aforesaid FIR was registered against the petitioner on the basis of complaint made by respondent No.2, who is wife of the petitioner. As per the FIR, there were some differences between the petitioner and respondent No.2 and they were living separately for the last about two years. The complainant denied the petitioner for physical relations. However, on

10.07.2017, the petitioner had taken some intoxicating tablets and raped her in a very bad way without her consent.

Learned State counsel on the basis of short reply by way of affidavit of Shubeg Singh, PPS, DSP, Nihal Singh Wala, District Moga, has submitted that during the investigation, it was found that the offence under Section 377 IPC has not been committed by the petitioner and accordingly, the same has been deleted. Further, the offence under Section 506 IPC is of non-cognizable in nature. Accordingly, a cancellation report in the case was prepared on 31.08.2018 and was presented before the concerned Court on 11.09.2018, but the same has not been accepted by the Court. He further states that during investigation, nothing has been found against the petitioner.

This Court vide order dated 12.11.2018 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 have appeared before learned Sub-Divisional Judicial Magistrate, Nihal Singh Wala and got their statements recorded on 11.12.2018. On the basis of the statements so recorded by the parties, learned Magistrate has submitted the report dated 21.12.2018 to the effect that the compromise is genuine, out of free will and it is not the result of any threat, coercion or undue influence in any manner and this compromise so arrived between the parties shall not cause any prejudice to the right, title or interest of any other party.

Though no one has put in appearance on behalf of the petitioner as well as respondent No.2-complainant, but a bare perusal of the compromise deed dated 01.11.2017 (Annexure P-2) shows that the parties have entered into a compromise with their mutual consent and now they have no grudge and grievance against each other and they are living as husband and wife. Further, the offence under Section 377 IPC has been deleted during the course of investigation.

Therefore, considering the fact that the petitioner and respondent No.2 are staying together as husband and wife and the matter has been compromised between them, continuation of the proceedings before the trial Court in the instant FIR qua the petitioner shall be an abuse of the process of law.

Accordingly, the present petition is allowed and the FIR No.115 dated 30.07.2017 under Sections 376-B, 377 and 506 IPC (offence under Section 377 IPC deleted later on) registered at Police Station Nihal Singh Wala, District Moga (Annexure P-1) and all consequential proceedings arising therefrom are quashed qua the petitioner on the basis of compromise dated 01.11.2017 (Annexure P-2).

October 22, 2019

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No