

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

CRM-M-22773-2019 (O&M)

Date of Decision:- 15.10.2019

Rohit Dubey

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Dinesh Kumar Prajapati, Advocate for the petitioner.

Ms. Aditi Girdhar, Assistant Advocate General, Haryana.

Mr. Anil Kumar, Advocate for respondent No.2.

GURVINDER SINGH GILL, J.

1. The petitioner has approached this Court seeking quashing of FIR registered vide FIR No.11 dated 1.3.2019 registered under Sections 328/506/376 IPC and Section 4 of POCSO Act at Police Station Women NIT, Faridabad and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.
2. The FIR was registered at the instance of respondent No.2 Sanaha Khurana wherein it has been alleged that she knows the petitioner Rohit Dubey since Class ninth and he has been her classmate from class Ninth to class Twelfth and they had become friends and had started loving each other and had also decided to get married. It is alleged that the petitioner Rohit Dubey on the pretext of marrying her took her to his house on 21.10.2018 in order to introduce her to his parents. However, when they reached the house, his parents were not there and when she asked Rohit as to where his parents

were, he replied that they would be coming shortly and offered her a cold drink and upon consuming the same, she fell unconscious and that Rohit committed rape upon her. It is alleged that when she regained consciousness, she found herself naked and Rohit's brother Vikas was sitting near her. When the complainant protested, then Vikas showed video to her wherein Rohit was committing rape upon her. The accused held out a threat to defame her by uploading the video on social media in case she disclosed about the incident to anybody. It is further alleged that thereafter Rohit used to commit rape upon her at Oyo Rums Hotel, Sanik Colony and Neelam Chowk by blackmailing her. It is further alleged that she was raped on 7.1.2019 and later being fed up, she disclosed about the same to her cousin brother Sahil and when her cousin Sahil and she requested Rohit to delete the video, he gave beating to Sahil.

3. The learned counsel for the petitioner has submitted that it is a case where the complainant/prosecutrix had left her house out of her own free will and had solemnized marriage with the petitioner but subsequently, the father of the complainant pressurized her to get the FIR lodged against the petitioner by levelling false allegations. The learned counsel has submitted that the petitioner as well as the complainant, pursuant to their marriage are residing together happily. The learned counsel, in this regard, has referred to the marriage Certificate annexed with the petition as Annexure P-4 and also the affidavit of respondent No.2/complainant annexed as Annexure P-5. The learned counsel, further while referring to a copy of Aadhar Card of the complainant annexed as Annexure P-6 indicating the date of birth of the complainant as 12.11.2000 has submitted that the complainant in any case

was more than 18 years and as such was competent to take independent decision regarding her marriage and in these circumstances, the petitioner having married the complainant out of her own free will cannot be stated to have committed any offence.

4. The complainant Saneha is present in person and has admitted before this Court that she had indeed solemnized marriage with the petitioner and is residing with him happily and she does not wish to pursue with the FIR.
5. The petition has, however, been opposed by father of respondent No.2, who is present in person and has submitted that it is a case where his daughter had been enticed away by the petitioner by brain washing her and that he apprehends that the moment the FIR is quashed, his daughter shall be dumped by the petitioner. He has, thus, submitted that the petition be dismissed and the petitioner be prosecuted.
6. The learned State counsel has also opposed the petition while submitting that since there are specific allegations levelled in the FIR, it will be only during the course of trial that the veracity of the same can be established and that no case for quashing of FIR is made out.
7. I have considered rival submissions addressed before this Court. In view of the fact that the complainant was a major at the time of alleged occurrence and also the fact that she had admittedly married the petitioner voluntarily and is residing with him, no useful purpose would be served by forcing the petitioner to face prosecution as the same would not only be a futile exercise but could also affect the relationship between the petitioner and his wife i.e. the complainant, who is major, and who has taken a stand that she has voluntarily married the petitioner and the petition deserves to be accepted.

Consequently, while accepting the petition, the FIR No.11 dated 1.3.2019 registered under Sections 328/506/376 IPC and Section 4 of POCSO Act at Police Station Women NIT, Faridabad and all the consequential proceedings arising therefrom are hereby quashed.

15.10.2019

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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No