

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

CRM-M-52478 of 2018.

Decided on:- September 26, 2019.

Varun @ Arun.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

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

Present:- Mr. Armaan Gagneja, Advocate for
Mr. Raman Goklaney, Advocate for the petitioner.

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

Mr. Rahul Arora, 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.11 dated 23.01.2015 under Sections 363 and 366-A IPC registered at Police Station Ferozepur Cantt., District Ferozepur (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise dated 17.11.2018 (Annexure P-2).

This Court vide order dated 24.05.2019 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 respondent No.2-complainant Mamta Rani and respondent No.3-Himani Sharma have appeared before learned Sessions Judge, Ferozepur and got their statements recorded on 23.07.2019. On the basis of the statements so recorded by respondents No.2

and 3, learned Sessions Judge has submitted the report dated 05.08.2019 to the effect that the parties have made statements voluntarily and without any coercion or undue influence and compromise is genuine.

Learned counsel for the petitioner states that on the relevant date i.e. 23.07.2019, the petitioner was also present before the trial Court, but his statement could not be recorded. However, the fact remains that the petitioner and respondent No.3 Himani Sharma are staying together as husband and wife as they have solemnised marriage on 23.01.2015. Respondent No.3 Himani Sharma has attained the age of majority and out of this wedlock, a daughter has been born to them on 02.01.2019.

Learned counsel for respondents No.2 and 3 admits the very factum of compromise so entered between the parties.

Learned State counsel, on instructions from ASI Mohinder Singh, does not dispute the factum of compromise.

The FIR in question has been recorded on the basis of statement of respondent No.2-complainant Mamta Rani, who is author of the FIR and mother of respondent No.3 Himani Sharma. She has made a statement before learned Sessions Judge, Ferozepur in support of the compromise. Her statement so recorded by learned Sessions Judge, Ferozepur on 23.07.2019 reads as under:

“We, both the parties, have effected compromise with each other, so I do not want to proceed further with the present case. I do not want any action against Varun accused. The compromise has been effected by me voluntarily and without any coercion or undue influence.”

Similar statement has also been made by respondent No.3 before learned Sessions Judge, Ferozepur on 23.07.2019.

Admittedly, the petitioner and respondent No.3 are staying together as husband and wife and they are blessed with a daughter. Merely because the statement of the petitioner has not been recorded by the trial Court would not prejudice the case of the petitioner particularly when respondent No.2-complainant and respondent No.3-victim have already suffered their statements in favour of the petitioner.

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.11 dated 23.01.2015 under Sections 363 and 366-A IPC registered at Police Station Ferozepur Cantt., District Ferozepur (Annexure P-1) and all consequential proceedings arising therefrom are quashed qua the petitioner on the basis of compromise dated 17.11.2018 (Annexure P-2).

September 26, 2019

Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No