

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

261

CRM-M-15354-2018

Date of Decision:16.10.2019

Suraj Kumar Tomar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

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

Present: Mr. Gurjinder Singh Chahal, Advocate,
for the petitioner.

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

Mr. Sachin Sharma, 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 FIR No.0189 dated 02.10.2017 under Sections 376, 420 IPC, registered at Police Station Sultanwind, Police Commissionerate Amritsar (Annexure P-1) and all the consequential proceedings arising therefrom on the basis of compromise.

The aforesaid FIR was registered at the behest of complainant-respondent No.2-Renu Bala. As per FIR, the prosecutrix has come in contact of the petitioner on facebook and thereafter, they exchanged their mobile numbers and started talking with each other on phone. The photographs of the parties were also exchanged. The petitioner was working as a Constable and posted in Bhagpat Police Line, Meerut. He

proposed the complainant that he wanted to marry her. However, in reply thereto, the complainant has informed that her parents are not accepting it. She has given the mobile number of her mother and thereafter, the petitioner started talking with the mother of the complainant. The petitioner informed her that he will keep the complainant happy. On this assurance, her mother also agreed to solemnize marriage of the complainant with the petitioner. On 08.08.2017 as told by the petitioner, the complainant has gone to the railway station to meet him from where she was taken to Shivam Hotel, Queens Road, Amritsar. The petitioner has already booked a room there on the basis of his ID, where they stayed together for about eight hours. At about 6 PM, the petitioner informed the complainant that his father has met with an accident and therefore, he will rush back to his home. He further stated that he has no money, as his purse has fallen somewhere. The complainant had Rs.40,000/- with her which she gave to the petitioner. On 19.08.2017, the petitioner again came to meet her and booked a room in Hotel Suncity Tower, Queens Road. The complainant has gone there and the petitioner tried to come closer to her. However, when the complainant refused to this access, he stated that he wanted to marry her and after taking her into confidence made physical relations with the prosecutrix. He had also taken her ATM card and code number and thereafter, withdrew an amount of Rs.25,000/- from her ATM and another amount of Rs.15,000/- from her bag. He again called the complainant and said her that he has been removed from the job, his father is not well and he is facing great hardships, therefore, he wanted to go Saudi Arab. The complainant withdrew an amount of Rs.2,80,000/- from her bank account on 13.09.2017 and gave this money to the petitioner on 18.09.2017 at Amritsar Bus Stand. In this

manner, the petitioner has established physical relations with her on the promise of marriage and has also taken Rs.3,60,000/- from the complainant.

Learned counsel for the petitioner has argued that the petitioner and respondent No.2 have solemnized marriage and they are staying together as husband and wife. There were some misunderstandings between the parties, which stand removed. In order to establish the very factum of marriage, he refers to Marriage Certificate(Annexure P-3) issued by Marriage Registration Officer, Meerut as well as the affidavit submitted by respondent No.2, wherein she has stated that the FIR was registered under some misunderstanding and misconception with the apprehension that the petitioner may not solemnize marriage with her. However, this misunderstanding is clear as they have solemnized marriage and are staying together as husband and wife.

Learned counsel for the complainant-respondent No.2 states that the parties are residing together as husband and wife and he has no objection in case FIR in question is quashed. He admits the very execution of the affidavit(Annexure P-4) submitted by respondent No.2.

Learned State Counsel, on instructions from ASI Balwinder Singh, submits that in the aforesaid FIR, police has conducted the investigation and after investigation, cancellation report has been prepared and the same is pending consideration before the higher authorities for necessary approval.

This Court vide order dated 15.07.2019 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 1st Class, Amritsar and got their statements recorded. On the basis of the statements so recorded, learned Magistrate has submitted report dated 24.09.2019 to the effect that the compromise arrived at between the parties is genuine, voluntary and without any coercion or undue influence, being outcome of their free will and consent.

Respondent No.2-complainant, namely, Renu Bala, has made a statement with regard to compromise before learned Magistrate on 13.08.2019. The same is reproduced as under:-

“I had got registered an FIR No.189 dt. 02.10.2017, U/s 376/420 of IPC in P.S. Sultanwind, Amritsar against Suraj Kumar Tomar S/o Sh. Vinesh Kumar Tomar, R/o H.No.272, Tigri, Meerut, U.P., due to misunderstanding. A compromise dated 30.03.2018 has been effected between us as Suraj Kumar Tomar had solemnized marriage with me on 12.03.2018 and I am residing with him as his legally wedded wife. I have no objection if the above stated F.I.R. No.189/02.10.2017 against the accused Suraj Kumar Tomar be quashed. I am making this statement with my own will and consent and without any kind of pressure or undue influence. Original compromise deed is placed in the petition u/s 482 Cr.P.C. and the photocopy of the same is Mark-A. My adhar card is also annexed as EX. C1.”

Heard learned counsel for the parties.

The parties are major. The respondent No.2 has submitted an affidavit(Annexure P-3) that there were some misunderstanding and misconception between them and she had an apprehension that the petitioner may not solemnize marriage with her, but now the misunderstandings stand removed. At the same time, the police has conducted the investigation and no substance was found in the FIR and rather prepared the cancellation report, this Court finds that once the police

has prepared the cancellation report and the parties are staying together as husband and wife, having recourse to Section 482 Cr.P.C. and to meet the end of justice, the present FIR deserves to be quashed.

The Apex Court in *Criminal Appeal No.1165 of 2019* arising out of *SLP (Crl.) 2712 of 2019* titled as *Pramod Suryabhan Pawar Versus The State of Maharashtra and another* decided on 21.08.2019, while invoking the provisions of Section 482 Cr.P.C. has quashed the FIR for offences punishable under Sections 376, 417, 504 and 506(2) of IPC and Section 3(i)(4)(w) and 32(vii) of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities)Act, 1989.

Accordingly, the present FIR is quashed, however, subject to payment of costs of ₹10,000/- to be paid by the petitioner, 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