

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.20343 of 2019
Date of Decision:12.03.2020

Ranjit Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Inderjit Sharma, Advocate
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

None for respondent No.2.

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JAISHREE THAKUR, J. (ORAL)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.84 dated 13.12.2018 registered under Section 376 of Indian Penal Code at Police Station Kahnuwan, Tehsil and District Gurdaspur (Annexure P-1) and all subsequent proceedings arising therefrom in view of the compromise entered into between the parties.

2. In brief, the facts of the case are that an FIR came to be registered on 13.12.2018 under Sections 376 IPC at Police Station Kahnuwan, Tehsil and District Gurdaspur in which it was stated that prosecutrix-respondent No.2 was doing B.Sc Nursing from Jathedar Ujjagar Singh Sekhwan Institute. She was residing outside the village at *dera* and *dera* of petitioner-Ranjit Singh son of Gurdev Singh, resident of Malian was situated near her *dera*. She came into contact with Ranjit Singh while she used to go to school and they fell in love. Petitioner on false promise of

marriage made physical relations with respondent No.2 by calling her to his house but thereafter refused to marry her. Therefore, legal action be taken against petitioner-Ranjit Singh.

3. However, after lodging of the FIR, petitioner has solemnized marriage with respondent No.2 on 11.03.2019 according to Hindu rites and ceremonies against the wishes of their parents and this Court had granted them protection vide order dated 14.03.2019 passed in CRM-M No.11881 of 2019. They are living together happily as husband and wife and out of the wedlock, a son has been born. Therefore, respondent No.2 being legally wedded wife of the petitioner does not want to pursue the FIR and she has no objection if the FIR lodged by her against the petitioner is quashed.

4. By an order dated 06.09.2019, parties were directed to appear before the Illaqa Magistrate so that their statement could be recorded regarding the genuineness of the compromise. The parties appeared before the Illaqa Magistrate wherein a statement of the complainant was recorded on 16.09.2019 that she did not want to pursue the FIR.

5. In normal circumstances, the Court would not entertain a matter when the non compoundable offences are heinous in nature and against the public. In the instant case, the offence, complained of, is under Section 376 IPC, which is an offence of grave nature. In the eyes of law, the offence of rape is serious and non-compoundable and the Courts should not in the ordinary circumstances interfere and quash the FIR that has been registered. However, there are always exceptions to the normal rules and certain categories of cases, which deserve consideration specially when it is case of love affair between teenagers and on fear of the society and pressure from

the community one party alleges rape, cases where the accused and the victim are well known to each other and allegation of rape is levelled only because the accused refused to marry, as well as the age, educational maturity and the mental capacity, sequences of the same ought to be kept in mind when inclined to interfere.

6. In the instant case, a complaint came to be made in which it was stated that accused had on the pretext of marrying the complainant had committed rape and later on refused to marry her. However, later on, the accused, who is petitioner herein, has solemnized marriage with the respondent No.2-complainant and they are living now as husband and wife. Moreover, with the intervention of respectables, a compromise has also been entered into between them whereby it is decided by the complainant that the FIR would not be pursued.

7. In a judgment rendered by the Hon'ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another, 2014(6) SCC 466**, the Hon'ble Apex Court has laid down certain principles and guidelines which should be kept in mind while quashing of FIRs pertaining to non-compoundable offence. For ready reference paragraphs No.29.2 and 29.5 are reproduced as under :-

“29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure : (i) ends of justice, or (ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case.”

8. Even in a judgment rendered by the Hon'ble Supreme Court in **Madan Mohan Abbot vs State Of Punjab, 2008 (4) SCC 582**, it has been held that it is advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings. Relevant paragraph of the said judgment is reproduced herein below :-

“5. It is on the basis of this compromise that the application was filed in the High Court for quashing of proceedings which has been dismissed by the impugned order. We notice from a reading of the FIR and the other documents on record that the dispute was purely a personal one between two contesting parties and that it arose out of extensive business dealings between them and that there was absolutely no public policy involved in the nature of the allegations made against the accused. We are, therefore, of the opinion that no useful purpose would be served in continuing with the proceedings in the light of the compromise and also in the light of the fact that the complainant has, on 11th January 2004, passed away and

the possibility of a conviction being recorded has thus to be ruled out. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law. We see from the impugned order that the learned Judge has confused a compounding of an offence with the quashing of proceedings. The outer limit of Rs.250/- which has led to the dismissal of the application is an irrelevant factor in the later case. We accordingly allow the appeal and in the peculiar facts of the case, direct that FIR No.155 dated 17th November 2001 P.S. Kotwali, Amritsar and all proceedings connected therewith shall be deemed to be quashed.”

9. Even in the judgment rendered in **Gian Singh vs State Of Punjab & Anr, reported as 2012(10) SCC 303** the basic principle of law as laid down is that where offences are purely private in nature and do not concern public policy, the power to quash proceedings involving non-

compoundable offences on the basis of compromise can be exercised.

10. Therefore, while relying upon the ratios of the aforesaid judgments, this Court is of the view that the compromise which has been entered into for quashing of an offence under Section 376 IPC on the basis of the compromise should be accepted. The complainant in her statement before the JMJC, Gurdaspur on 16.09.2019 stated that she has solemnized marriage with petitioner herein and she is residing with him as husband and wife at her matrimonial home. Out of the wedlock, a son has been born and therefore, she does not want to proceed further with this case against the petitioner and she has no objection if FIR lodged by her against the petitioner is quashed by this Court.

11. Consequently, in view of the above, this petition is allowed and the FIR No.84 dated 13.12.2018 registered under Section 376 of Indian Penal Code at Police Station Kahnuwan, Tehsil and District Gurdaspur and all subsequent proceedings arising out of the same qua petitioner are quashed.

(JAISHREE THAKUR)
JUDGE

March 12, 2020

Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No