

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

214

**CRM-M-26467-2020
Decided on : 12.10.2020**

Manjit

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. S.K. Verma, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

Ms. Sakshi, Advocate for respondents No.2 & 3.

(The proceedings are being conducted through
video conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The present petition under Section 482 Cr.P.C., has been filed for quashing of FIR No.49 dated 19.02.2019 under Section 6 of the POCSO Act, 2012 and Sections 363, 366-A, IPC registered at Police Station Sadar Jind, District Jind (Annexure P-1) and all other subsequent proceedings and orders arising therefrom, on the basis of compromise arrived at between the parties.

The FIR was lodged by respondent No.3 Rajesh, father of the girl/victim, in which it was alleged that his daughter who was around 16 years old and born on 07.07.2002 had been abducted by some unknown person and she be recovered.

The case of the petitioner, who is in custody, is that it was a love affair and they had run away from their houses on 28.01.2019 and reached at Amritsar and had solemnized marriage. They had come back to

their house on 02.03.2019 and the police had produced the girl before the Chief Judicial Magistrate, Jind for recording her statement under Section 164 Cr.P.C. The statement dated 03.03.2019 (Annexure P-2) also does not show that there was anything wrong that had happened and they had stayed in the Gurudwara and she had come back with the petitioner and wanted to go to her house of her parents.

On the basis of the above said FIR, the petitioner was arrested and charged. It transpires that there is a girl child born from the wedlock. The victim was examined before the Additional Sessions Judge, Jind on 28.01.2020 (Annexure P-3) by the prosecution, where she also exonerated the petitioner of committing any wrong act without her permission. In cross-examination she also stated that she wanted to stay with the petitioner.

Resultantly, on 05.07.2020 she submitted an affidavit (Annexure P-4) that she was residing with the family of the petitioner and is now aged more than 18 years. The affidavit of the complainant (Annexure P-5) is that he does not want to pursue with the above said FIR, as his daughter is residing in her matrimonial home and a child has also been born. In such circumstances, quashing of the FIR is sought.

On 07.09.2020 this Court had directed the trial Court to record the statements of the respondents and submit its report. The report of the Additional Sessions Judge, Jind dated 11.09.2020 has been received that there is only one accused in the present case and no other accused have been declared proclaimed offender. The statement of the

girl and the father had also been got recorded on 11.09.2020 to the extent that she is residing in her matrimonial house and happy in her married life and being looked after by the parents of the petitioner.

Counsel has also placed reliance upon the judgment dated 05.03.2020 passed in **CWP No.47266 of 2019 'Pankaj @ Sikander Kumar Vs. State of U.T. Chandigarh and another'** (Annexure P-6), whereby in similar circumstance the FIR under Section 376 IPC and Section 6 of the POCSO Act, 2012 and subsequent proceedings as such had been quashed, by placing reliance upon the judgments in **Narinder Singh and others vs. State of Punjab and another, 2014 (6) SCC 466; Madan Mohan Abbot vs State Of Punjab, 2008 (4) SCC 582 and Gian Singh vs State Of Punjab & Anr, reported as 2012(10) SCC 303.**

In the said case also the complainant had stated that she wanted to marry the accused and, thus, keeping in view the nature of compromise, the Coordinate Bench had allowed the petition.

In the present case, the position is even better, as there is a child from the marriage and it would be travesty of justice if the said child is denied the benefit of comfort that her father can provide. The girl has also been looked after by her in-laws, who had accepted their marriage and, therefore, in the interest of justice and since it is a case which would fall within the parameters laid down by the Full Bench of this Court in **Kulwinder Singh and others vs. State of Punjab and another, 2007 (3) RCR (Crl.) 1052**, it is a fit case for quashing the proceedings. The observations are as under:-

“30. The power under [Section 482](#) of the Cr.P.C. is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under [Section 482](#) of the Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.”

Accordingly, keeping in view the above, the FIR No.49 dated 19.02.2019 (Annexure P-1) alongwith all subsequent proceedings arising therefrom are accordingly quashed and the present petition stands allowed. The petitioner who is in custody in District Jail, Jind, shall be released forthwith. Office shall intimate the trial Court about the releasing of the petitioner.

The petition stands allowed, accordingly.

OCTOBER 12, 2020
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No