

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

CRM-M-30834 of 2019.

Decided on:- March 12, 2020.

Gulfam.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

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

Present:- Mr. Arnav Kumar Sood, Advocate
for the petitioner.

Ms. Ruchika Sabharwal, A.A.G., Punjab.

None 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.173 dated 20.12.2018 under Sections 363 and 366-A IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Tibba, District Police Commissionerate, Ludhiana (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise by way of affidavit dated 11.04.2019 (Annexure P-2) and affidavit dated 11.02.2019 (Annexure P-3).

This Court vide order dated 22.07.2019 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 parties had appeared before learned Judicial Magistrate 1st Class, Ludhiana and got their statements recorded on 06.08.2019. On the basis of the statements so recorded by the parties, learned Magistrate has submitted the report dated 20.08.2019 to the effect that the matter has been compromised between the parties.

The FIR in question has been recorded on the basis of statement of respondent No.3-complainant Mohammad Ahemad. Though no one has put in appearance on his behalf, but it would not cause any prejudice to him as he has already made a statement before learned Magistrate in support of the compromise on 06.08.2019, which reads as under:

“Stated that FIR No.0173 dated 20.12.2018 under Section 363, 366A IPC and Section 4 POCSO Act was registered on my statement. Now I have compromise the matter with the accused Gulfam without any pressure, threat and coercion and with my free consent. I have no objection if FIR case proceedings quashed against accused Gulfam. My Aadhar card is Ex.C1 and compromise deed is Ex.C4.”

Similarly, respondent No.2, who is the victim and daughter of the respondent No.3-complainant has made a statement before learned Magistrate on 06.8.2019 in support of compromise.

At this stage, learned State counsel, on instructions from ASI Davinder Pal, submits that the police has already investigated the matter and prepared a cancellation report and the same is likely to be submitted to the Court.

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 of FIR No.173 dated 20.12.2018 under Sections 363 and 366-A IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Tibba, District Police Commissionerate, Ludhiana (Annexure P-1) and all consequential proceedings arising therefrom are quashed qua the petitioner on the basis of compromise by way of affidavit dated 11.04.2019 (Annexure P-2) and affidavit dated 11.02.2019 (Annexure P-3).

March 12, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No