

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

CRM-M-34655 of 2019 (O&M)

Date of Decision: February 12, 2020

Rahul Kumar @ Rahul

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Munish Puri, Advocate
for the petitioner.

Mr. Davinder Bir Singh, DAG Punjab
for respondent No.1.

Mr. Sanjeev Kumar, Advocate
for respondents No.2 and 3.

JAISHREE THAKUR, J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.93 dated 28.08.2018 registered under Sections 363, 366-A of Indian Penal Code (Section 376 of IPC and Section 4 of POCSO Act added later on) at Police Station Sujampur, District Pathankot (Annexure P/1) and all subsequent proceedings arising therefrom.

2. The FIR in question came to be registered by the complainant-respondent No.2 namely Som Raj alleging therein that on 25.08.2018 her daughter (respondent No.3) has been taken away by the petitioner herein on the pretext of marriage, by inducing her.

3. On the other hand, the version of the petitioner-Rahul Kumar

@ Rahul is that in fact, he and respondent No.3 (daughter of respondent No.2) were in love with each other and due to this reason, the petitioner and respondent No.3 ran away from their houses. Now, the matter stands compromised between the parties and the parents of respondent No.3 performed an engagement ceremony on 24.07.2019 of the petitioner with respondent No.3 (photographs annexed as Annexure P-3) and subsequently, a marriage has been solemnized on 04.02.2020, as the prosecutrix attained the majority on 18.01.2020. With these averments in the petition, quashing of the FIR has been prayed for.

4. Keeping in view the fact that the parties have entered into a compromise, they were directed to appear before the trial court/Illaq Magistrate for getting their statements recorded in support of the compromise. In pursuance of the direction, a report has been received from Addl. Sessions Judge at Pathankot, stating that the compromise arrived at between the parties is without any pressure or coercion from anyone and the same is genuine one.

5. Complainant-respondent No.2 is present in the court today (duly identified by his counsel) and admits to the factum of the compromise. He states at bar that he is happy with the marriage of her daughter (respondent No.3) with the petitioner and has no objection, if the FIR in question is quashed.

6. Learned counsel appearing on behalf of the petitioner contends that the allegations as set out in the FIR are false. It is also argued that continuation of the proceedings under the FIR would not serve any purpose, as the petitioner and respondent No.3 i.e. daughter of the complainant-

respondent No.2 are residing together and living a happy married life.

7. Per contra, learned counsel appearing on behalf of the respondent-State, on instructions from the Investigating Officer opposes the quashing of the FIR, however, does not dispute the fact that the petitioner and respondent No.3 are married and residing together.

8. In normal circumstances, the Court would not entertain a matter when non compoundable offences are involved. However, in the instant case, a reading of the FIR would show that complainant-respondent No.2 alleged that his daughter i.e. respondent No.3 has been enticed away by the petitioner herein on the pretext of marriage. However, the fact that respondent No.3 on her free will ran away with the petitioner from the house of complainant-respondent No.2 and thereafter, solemnized a marriage on 04.02.2020 with the consent of parents of both the sides and are living a happy married life, cannot be lost sight of.

9. 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.”

10. The factual matrix of the case is that after the lodging of the FIR in question, the matter stands compromised between the parties and the complainant-respondent No.2 solemnized the marriage of his daughter (respondent No.3) with the petitioner and since then they are residing happily. Consequently, complainant-respondent No.2 has no objection if the FIR is quashed. This court is of the considered view that the continuation of the proceedings under the FIR would be an abuse of the process of court and under the facts and circumstances of the present case, the possibility of conviction is remote and bleak and continuation of criminal case would put the accused, daughter of the complainant as well as complainant to great oppression and prejudice and extreme injustice would be caused to them by not quashing the FIR. Reliance in this regard has also been placed upon the judgments rendered in ***Rukshana and another vs. Govt. of NCT of Delhi and others, 2007(3) RCR (Criminal) 542, Madan Lal and others vs. State of Punjab and another, 2017(3) RCR (Criminal) 403, Sh. Jitender Kumar Sharma vs. State and another, 2010(4) RCR (Criminal) 20, Gulam Rasul and others vs. State of Punjab and others, 2016(2) RCR (Criminal) 73 and Swaroop vs. State of H.P. and another, 2017(4) RCR (Criminal) 239.***

11. Therefore, while relying upon the ratio of the aforesaid judgments and to secure ends of justice, the present petition is allowed and the FIR No.93 dated 28.08.2018 registered under Sections 363, 366-A of Indian Penal Code (Section 376 of IPC and Section 4 of POCSO Act added later on) at Police Station Sujampur, District Pathankot and all subsequent proceedings arising out of the same are quashed qua the petitioner herein.

February 12, 2020
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No