

In the High Court for the States of Punjab and Haryana at Chandigarh

**CRM-43014-2021 in/and
CRM-M-15159-2021 (O&M)
Date of Decision: December 22, 2021**

Harbinder Kumar and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Navraj Singh Mahal, Advocate,
for the petitioners.

Ms. Ruchika Sabherwal, AAG, Punjab.

Mr. Deepinder Brar, Advocate,
for respondent No.2.

Vivek Puri, J.

CRM-43014-2021

This is an application for pre-ponement of the main petition,
which is stated to be fixed for 24.03.2022.

Learned counsel for the applicants/petitioners contends that
the matter has been amicably settled, the statements of the parties have
already been recorded and the report of the learned trial Court has been
received.

Notice in the application.

Learned State counsel, as well as, learned counsel for
respondent no.2 accept notice and state that they have no objection, if the
main petition is pre-poned and taken up on the board today itself.

By recording of no objection, main petition is taken up on the board today itself.

Application is disposed of accordingly.

CRM-M-15159-2021

Petitioners have approached this Court by way of instant petition under Section 482 Cr.P.C. invoking its inherent jurisdiction for quashing of FIR No. 0135, dated 24.08.2020, under Sections 376, 34 of the Indian Penal Code, registered at Police Station Bullowal, District Hoshiarpur and all the consequential proceedings arising therefrom, on the basis of compromise and marriage between petitioner no.1 and respondent no.2 (Annexure P-2).

Briefly, the FIR has been registered on the basis of the statement of respondent no.2 alleging that she has been staying in the house of her relative/acquaintance, namely, Manpreet Kaur. In January 2020, respondent no.2 was alone in the house and the petitioner no.1 entered in the house, caught hold of her and made physical relation. On the objection from the respondent no.2, the petitioner assured to solemnize marriage with her. On the false pretext of marriage, the petitioner no.1 had been making physical relation with the respondent no.2 and subsequently, he refused to solemnize marriage with her. Petitioners no. 2 to 4 are the relatives of the petitioner no.1, who had also assured that petitioner no.1 will marry her and she should not disclose about the relationship to anyone.

It has been contended by the learned counsel for the petitioners, as well as, learned counsel for respondent no.2 that both the

parties i.e. petitioner no.1 and respondent no.2 were in relationship, they have solemnized the marriage on 25.02.2021 and Annexure P-2 is the marriage certificate. The petitioner no.1 and the respondent no.2 have already attained the age for valid marriage.

In terms of order dated 07.04.2021, the parties were directed to appear before the learned trial Court/Illaq Magistrate for recording the statements and the concerned Court was directed to send the report containing the following information:-

- “1. Number of persons arrayed as accused in FIR.*
- 2. Whether any of the accused is proclaimed offender.*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other case or not.*
- 5. Current stage of the case*

The trial Court/Illaq Magistrate is further directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.”

The learned Judicial Magistrate 1st Class, Hoshiarpur has recorded the statements of both the parties and sent the following report:-

“It is further respectfully submitted that on 27.04.2021, Vandna @ Bandna wife of Harbinder Kumar daughter of Ashok Kumar resident of Saido Patti, Chabbewal, Hoshiarpur appeared before the concerned Illaq Magistrate and stated that her marriage was solemnized on 25.02.2021 with accused no.1 Harbinder Singh son of Charan Singh resident of Village Chakowal Sheikhan, Nainowal Jattan, Hoshiarpur and she has compromised

the matter with accused No.2 Charan Dass @ Charni son of Bhagat Ram resident of Village Chakowal Sheikhan, Nainowal Jattan, Hoshiarpur, accused no.3 Varinder Kumar son of Jarnail Chand resident of Village Rampur, Nurpur Jhanjowal, District Hoshiarpur and Sukhchain Singh s/o Joginder Singh resident of Village & Post Office Nasrula, District Hoshiarpur, out of her own will and volition. She has further stated that the compromise has been effected without any fear or inducement. She has further stated that there are only four accused namely Harvinder @ Harbinder Kumar, Charni, Varinder and Sukhchain Singh, in the FIR and none of accused has been declared as proclaimed offender. She has further stated that she has no objection if the proceedings of the FIR No. 135 dated 24.08.2020, under sections 376, 34 IPC registered at Police Station Bullowal, District Hoshiarpur, is quashed against the aforementioned accused.

It is further respectfully submitted that on the same day, (1) Harbinder Kumar s/o Charan Dass (2) Charan Dass @ Charni son of Bhagat Ram, both residents of Village Chakowal Sheikhan, Nainowal Jattan, Hoshiarpur (3) Varinder Kumar son of Jarnail Chand resident of Village Rampur, Nurpur Jhanjowal, District Hoshiarpur and (4) Sukhchan Singh son of Joginder Singh resident of Village & Post Office Nasrula, District Hoshiarpur appeared and stated that the marriage of accused No.1 Harbinder Kumar is solemnized on 25.02.2021 with complainant Vandna @ Bandna wife of Harbinder Kumar, daughter of Ashok Kumar resident of Saido Patti, Chabbewal, Hoshiarpur and they have further stated that they have compromised the matter with the complainant Vandna @ Bandna and

they are not involved in any other case except the present case.

It is further respectfully submitted that on 11.06.2021, SI Paramjit Kaur No. 1591/HPR, PS City, District Hoshirpur appeared before this Court being Duty Magistrate and stated that at the time of registration of the case as well as during investigation of case bearing FIR No. 135 dated 24.08.2020, under Sections 376, 34 of Indian Penal Code registered at Police Station Bullowal, District Hoshiarpur, she was Investigating Officer and the present case was registered on the statement of Vandna against four persons namely (1) Harbinder Kumar (2) Charan Dass @ Charni (3) Varinder Kumar and (4) Sukhchain Singh. She has further stated that Vandna was only victim/complainant in the present FIR and accused persons were never declared proclaimed offender in the present case. She has further stated that she do not know whether any compromise has been effected in between the parties and no other FIR/case was registered against the above mentioned accused persons at Police Station Bullowal. She has further stated that challan in this case has been presented in the Court of Ld. Illaqa Magistrate, Hoshiarpur.

Therefore, in the light of the statements suffered by the parties as well as Investigating Officer of this case, the requisite report is as under:-

- 1. Four persons namely (1) Harbinder Kumar (2) Charan Dass @ Charni (3) Varinder Kumar and (4) Sukhchain Singh arrayed as accused in the FIR.*
- 2. None of the accused has been declared as proclaimed offender.*

3. *After perusal of the statement of the parties, the compromise appears to be genuine, voluntarily and without any coercion or undue influence.*

4. *The present accused persons are not involved in any other case at Police Station Bulhawal as stated by Investigating Officer of this case.*

5. *Challan in this case has already been presented by the police on 22.10.2020 before the learned Duty Magistrate and the same is pending for further proceedings.”*

Learned counsel for the parties are *ad idem* that as an amicable settlement has been effected between the private parties and have solemnized marriage, they have no objection if the FIR and subsequent proceedings are quashed.

Learned counsel for the petitioners has also sought to place reliance upon ***Criminal Appeal Nos. 394-395 of 2021*** titled '***Anand D.V Versus State and another***' wherein the proceedings were quashed after the parties eventually got married subsequent to the registration of the FIR. Reliance has also been placed upon ***2018(2) Crimes 438*** titled '***Lovely Versus State of Punjab***' wherein the proceedings were quashed after the parties had solemnized marriage and were happily residing as husband and wife.

The inherent power vested in this Court under Section 482 of the Code of Criminal Procedure is not to be invoked as a matter of routine but to prevent the abuse of power of Court and to secure ends of justice. This section gives the power to this Court to entertain applications which are not contemplated in the Code of Criminal Procedure, in the event, it is felt that the ends of justice will require that the Court can invoke the

extraordinary powers which are to be exercised with restraint and not lightly. In the event, the Court is satisfied that in order to secure the ends of justice, it should interfere under its inherent powers, it ought to do so.

It may be mentioned here that in the normal course of events, this Court may not have been inclined to quash the FIR in case of a non-compoundable offence involving the crime which is heinous and serious in nature. However, in the case in hand, respondent No.2 has solemnized the marriage with the petitioner no.1.

In such circumstances, the possibility of conviction also become remote and bleak and continuation of criminal case will cause injustice not only to the petitioners but also to respondent No.2, who is now legally wedded wife of the petitioner no.1.

In such circumstances, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice in the light of amicable settlement having been effected between the parties. Although the FIR was registered at the first instance but the dispute has been amicably settled and relationship has materialized into marriage as the petitioner no.1 and respondent No.2 have already attained the requisite age for valid marriage. In such a situation, continuation of the prosecution would result in sheer abuse of process of law. In the event, the FIR is quashed, it will be for the welfare of the parties and would also tend to strengthen the healthy matrimonial relationship between the petitioner no.1 and respondent No.2 as husband and wife.

For the aforesaid view, this Court finds support from **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, upheld by Hon'ble Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303** and **Narinder Singh and others Vs. State of Punjab and another 2014(6)SCC 466**.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No. 0135, dated 24.08.2020, under Sections 376, 34 of the Indian Penal Code, registered at Police Station Bullowal, District Hoshiarpur and all the consequential proceedings arising therefrom, are ordered to be quashed, however, qua the petitioners only.

Resultantly, with the above-said observations made, the instant petition stands allowed.

December 22, 2021
vkd

(Vivek Puri)
Judge

Whether speaking / reasoned : Yes / No
Whether reportable : Yes / No