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

CRM-M-31212-2020

Date of decision : 24.05.2021

Ashwani Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

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

Present: Mr. Amandeep Saini, Advocate for the petitioner.

Mr.Sarabjit Singh, AAG, Punjab.

None for the complainant.

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

G.S. SANDHAWALIA, J.

Prayer in the present petition filed under Section 482 Cr.P.C, is for quashing the FIR No.0200 dated 17.11.2016 under Sections 376, 506 IPC registered at Police Station City Rupnagar District Rupnagar (Annexure P-1) and all consequential proceedings arising thereof on the basis of compromise dated 15.03.2020 (Annexure P-6).

Respondent No.2 is the present wife of the petitioner, who is a Police Constable and who had, at that point of time, alleged that the petitioner had entered into physical relations with her and on account of that she had become pregnant and was not getting married to her. The allegations of the petitioner assaulting her were also made.

It is the case of the petitioner that both the petitioner and respondent No.2 had filed CRM-M-41895-2016 titled *Harjit Kaur &*

another Vs. State of Punjab & others, before this Court wherein directions had been issued to look into the threat perception and to protect the life and liberty on account of the fact that they had got married.

It is not disputed that a male child namely Navnoor Choudhary was born on 04.04.2018 and the birth certificate is annexed as Annexure P-4. In pursuance of the investigation report, cancellation report was also prepared on 11.01.2017 (Annexure P-5) and a written compromise dated 15.03.2020 (Annexure P-6) was also filed.

Thereafter, the present petition had been filed seeking quashing of the same, wherein directions had been issued to the Trial Court to consider the report and pass appropriate orders on 29.10.2020. But, the Trial Court instead of accepting the report on 04.12.2020, sent the case back for proper investigation on the ground that the offences under Sections 376 & 506 IPC were non-compoundable.

Vide order dated 04.05.2021, the said order was stayed by this Court by noticing that the reasons for not accepting the cancellation report were perverse and an insensitive approach had been taken by the Trial Court, keeping in view the background and the allegations in question and therefore, the cancellation report had been rightly submitted by the State. Directions were issued to the parties to get their statements recorded and the parties accordingly put in appearance before the concerned Court on 10.05.2021 and report was called for.

The report of the Addl. Chief Judicial Magistrate, Rupnagar dated 10.05.2021 has now been received. As per the report, the petitioner is the only accused in the FIR and respondent No.2 is the only complainant

aggrieved against the said action of the petitioner. She had got recorded her statement alongwith the accused in support of the compromise and has reiterated that she had no objection if the FIR is quashed.

The factum of the parties living together happily without any pressure from any quarter has also been recorded in the statements. Similarly the statement of the Investigating Officer was also recorded as to the identity of the persons. The Trial Court has also recorded that the compromise is on account of the free will of the parties. In such circumstances, this Court is of the opinion that though the offence might be under Section 376 IPC, but in view of the fact that the parties have married and are living happily thereafter and have also been blessed with a male child, prosecution of the petitioner would be an abuse of the process of Court and it would be in the interest of justice that the FIR be quashed.

The present case is also squarely covered by the Full Bench judgment of this Court in **Kulwinder Singh & others Vs. State of Punjab & another 2007 (3) RCR (Crl.) 1052**. Relevant para of the same reads 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 extraordinary 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.”

Similarly, the judgments of the Apex Court in **Narinder Singh & others Vs. State of Punjab & another 2014 (6) SCC 466**, **Madan Mohan Abbot Vs. State of Punjab 2008 (4) SCC 582**, **Gian Singh Vs. State of Punjab & another 2012 (10) SCC 303** and **Gold Quest International Private Limited Vs. State of Tamil Nadu & others 2014 (4) RCR (Criminal) 206**, would also be applicable. Similar view has been taken by the Co-ordinate Bench in CRM-M-36076-2019 titled *Kuljot Singh Vs. State of Punjab & another*, decided on 05.02.2020 (Annexure P-7).

In the present case as noticed the parties have been blessed with a son from the marriage and the petitioner is a police constable, whose services as such would be adversely affected on account of criminal proceedings which have been launched by the wife at that point of time. The complainant as such has compromised the matter as noticed and the parties are living together and it would be travesty of justice if the head of the family as such is faced with the prosecution, which the complainant herself is not willing to support and which has further been vouched by recording her statement before the Trial Court. The dispute being primarily as such arising out of matrimonial alliance as such, is not the one which is out of the ambit of a private dispute and the possibility of conviction is remote, bleak and continuation of proceedings, thus, would cause

extreme prejudice and injustice to the parties.

In similar circumstances, in CRM-M-26467-2020 titled *Manjit Vs. State of Haryana & others*, decided on 12.10.2020, this Court had also quashed the FIR wherein a minor who had a love affair and was blessed with a child from the said relationship and was residing with the accused. Resultantly, the FIR and all consequential proceedings were also quashed.

Accordingly, in view of the above, the present petition is allowed and FIR No.0200 dated 17.11.2016 (Annexure P-1) and all consequential proceedings including the order dated 04.12.2020, passed by the CJM, Rupnagar, are quashed.

24.05.2021

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**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No