

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

**CRM-M-20406-2021
Decided on : 17.12.2021**

Abhimanyu

. . . Petitioner(s)

Versus

State of UT Chandigarh and another

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.S.Mor, Advocate
 for the petitioner.

Mr. A.M. Punchhi, PP, UT Chandigarh with
Mr. Anupam Bansal, APP, UT Chandigarh

Mr. Jagjeet Beniwal, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (Oral)

1. The instant petition is for quashing of FIR No. 0001, dated 06.01.2021, under Sections 376(2)(N), 506 of IPC and Section 6 of the POCSO Act, 2012, registered at Police Station Manimajra, District Chandigarh (Annexure P-1) and all the consequential proceedings arising out of the same, on the basis of compromise dated 11.03.2021 (Annexure P-2).

2. Learned counsel for the petitioner *inter alia* contends that the petitioner and the victim (respondent No.2), aged 17 years 9 months, had been in a relationship since long. On account of some differences between them coupled with the fact that the parents of the victim were averse of their relationship, the FIR in question was registered in the heat of emotions. He further submits that soon after the registration of the

FIR on 06.01.2021, the victim delivered a child on 17.01.2021 i.e. after 10 days of the registration of the FIR in question. After the birth of the child, her parents accepted their relationship and the victim shifted into the house of the petitioner where she had been living happily ever since then, with the petitioner and his family. In support, learned counsel has invited the attention of this Court to compromise dated 11.03.2021 (Annexure P-2) arrived at, between the victim and the petitioner wherein the aforementioned submissions made by the learned counsel find duly reflected. Affidavits dated 19.02.2021 (Annexure P-3 to P-7) have also been filed qua the amicable settlement arrived at between the parties. Learned counsel has further submitted that no doubt the offence under Section 376 IPC is non-compoundable, however, in the peculiar facts and circumstances and in the light of affidavits filed by the victim and her parents, a compassionate view be taken and the FIR in question be quashed as the continuation of criminal proceedings would be an exercise in futility. In support of his submissions, learned counsel has placed reliance upon the judgment of Apex Court in ***Prashant Bhartiya vs. State of Delhi and another, 2021(3)RCR (Crl.) 714, Ananda D.V. Versus State and another, 2021 All SCR (Crl.) 1175 and Saju P.R. vs. State of Kerala & ors (Crl. Appeal no.1740/2019) decided on 22.11.2019*** wherein Hon'ble Supreme Court had quashed the FIR registered for offences under Section 376 IPC in view of peculiar facts and circumstances of those cases.

3. Vide order dated 06.10.2021, of this Court, the parties were directed to appear before the learned Illaqa Magistrate/trial Court on

22.11.2021 to get their statements recorded regarding the compromise arrived at between them.

4. Report dated 25.11.2021 has since been received from the learned Fast Track Special Court, Chandigarh, in pursuance to the direction of this Court, wherein, the factum of the compromise arrived at between the parties stands verified and confirmed.

5. Learned State counsel has also not disputed the factum of compromise effected between the parties and does not oppose the prayer made by learned counsel for the petitioner and respondent No.2 for quashing of the FIR in question.

6. Admittedly, the victim was just a couple of months short of attaining the age of majority at the time of registration of FIR in question and it is a matter of record that after 10 days of the registration of the FIR, she delivered a child from the loins of the petitioner. Ever since, the delivery of the child on 17.01.2021, she had been living in the house of the petitioner with his family. Still further, during the interregnum, she had also attained the age of majority.

7. Undoubtedly, the offence under Section 376(2)(n) IPC and Section 6 of POCSO Act are non-compoundable and are excluded from the category of offences, which can be compounded under Section 320 Cr.PC. However, in the peculiar facts and circumstances, this Court deems it appropriate to exercise its inherent jurisdiction under Section 482 Cr.PC and quash the FIR in question on the basis of compromise arrived at between the parties.

8. In view of the report of the learned FTSC, Chandigarh and the principles laid down by the Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303**, and also by the Full Bench of this Court in **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, the instant petition is allowed. The aforesaid FIR and all consequential proceedings arising out of it, are quashed.

Needless to say the parties shall remain bound by the terms of compromise and their statements recorded before the Court below.

17.12.2021
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(MANJARI NEHRU KAUL)
JUDGE

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