

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

CRM-M-43751-2017 (O&M)

Date of decision : 21.01.2021

Jaswinder

... Petitioner(s)

Versus

The State of Punjab and Another

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Arjun Veer Sharma, Advocate for the petitioner.

Mr. V.G.Jauhar, Sr. DAG, Punjab.

Mr. Kushagra Mahajan, Advocate, Advocate
for respondent No.2-complainant.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

On 16.02.2018, the following order was passed:

“ Prayer in this petition is for quashing of FIR No.143 dated 03.10.2017, under Section 376 IPC, registered at Police Station Dugri, District Ludhiana, along with consequential proceedings arising therefrom on the basis of a compromise, arrived at between the parties.

It is submitted that no offence punishable under Section 376 IPC is made out against the petitioner as the petitioner and respondent no.2 have solemnised marriage on 30.10.2017.

Respondent no.2, duly identified by her counsel is again present in Court. She states that her date of birth is 19.09.1993 and she has solemnised marriage with the petitioner on 30.10.2017 out of her own free will.

Learned counsel for the State, on instructions from ASI Karamjit Singh, verifies that the petitioner and respondent no.2 are now living together after solemnisation of marriage.

Accordingly, the parties are directed to appear before the learned trial court/Illaq Magistrate on 19.03.2018 for recording of their statements in regard to the settlement. The learned trial court/Illaq Magistrate shall on 19.03.2018 or any other date fixed by it, in case the statements cannot be recorded on that day, record the statements of the petitioners and respondent No.2 as well as all/any affected person(s) regarding the factum of compromise. Written compromise, if any, be produced before the learned trial court/Illaq Magistrate.

Learned trial court/Illaq Magistrate shall send its report regarding the genuineness of compromise alongwith statements of the parties before the date fixed. Total number of accused persons and the affected persons be detailed. Information regarding conviction/ involvement of any of the accused in any other case, whether they are proclaimed offenders or pendency of such proceedings be indicated in the report.

List on 27.04.2018.”

The statements of the parties have since been recorded. The report dated 20.03.2018 has been received from Judicial Magistrate, Ist Class, Ludhiana wherein it has been stated that the parties have since compromised the matter and the same has been entered into between the parties without any pressure, influence or coercion. In the present case,

the Prosecutrix and accused have since solemnized their marriage on 30.10.2017 and since then they are co-habiting together and living peacefully. The Prosecutrix is 30 years of age and also got her statement recorded that she does not have any objection if the FIR is quashed and she has given statement with her free will and consent, without any coercion and pressure.

The Apex Court in the case of “Gian Singh V/s State of Punjab & Anr.” 2012 (10) SCC 303, has held as under:-

“ 57. The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to

the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Learned counsel for the petitioners has also referred to the law laid down by this Court in “**Kulwinder Singh &Ors. Vs. State of Punjab &Anr.**” 2007 (3) RCR (Criminal)1052, wherein it has been held

that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 of the Code of Criminal Procedure, 1973, to quash the proceedings to prevent abuse of law and secure the ends of justice.

In view of the above and keeping in view the report by the Trial Court that the parties have genuinely entered into a compromise and all the disputes between the parties have been resolved, it would not be in the interest of justice to continue the criminal proceedings.

Resultantly, FIR No.143 dated 03.10.2017 under Section 376 of the Indian Penal Code, 1860 registered at Police Station Dugri, District Ludhiana, and all subsequent proceedings arising therefrom, stand quashed.

The petition is accordingly allowed.

January 21, 2021

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(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable :YES/NO