

SUKHWINDER SINGH @ SUKHA

...PETITIONER

VERSUS

STATE OF PUNJAB AND ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Harpal Singh Sidhu, Advocate
for the petitioner.

Ms. Ruchika Sabharwal, AAG, Punjab.

Ms. Manjeet Kaur, Advocate
for respondent No.2.

VIVEK PURI, J. (ORAL)

Petitioner has approached this Court by way of instant petition under Section 482 Cr.P.C. invoking its inherent jurisdiction for quashing of FIR No. 190 dated 01.12.2020 under Sections 376 and 506 IPC, 1860 (Section 328 IPC, 1860 added later non), registered at Police Station City Moga and all the consequential proceedings arising therefrom, on the basis of compromise.

Briefly, the FIR has been registered on the basis of the statement of respondent No.2 alleging that she came in contact with the petitioner through facebook account, who proposed her for marriage. The petitioner forcibly committed rape upon the prosecutrix on the fake promise of marriage.

It has been contended by the learned counsel for the petitioner that the FIR has been lodged on account of misunderstanding and the petitioner was ready to perform marriage with respondent No.2. The parties have solemnized marriage on 26.12.2020 and Annexure P-3 is the Anand Karaj certificate. A compromise has now been effected between the parties. Respondent No.2 is aged about 25 years

and has solemnized marriage with the petitioner and they are residing together.

Respondent No.2 has no objection if the FIR is quashed.

In terms of order dated 19.07.2021, the parties were directed to appear before the learned trial Court/Illaq Magistrate for recording the statements with regard to the compromise/settlement and the concerned Court was directed to submit a report.

The learned Additional Sessions Judge, Moga has recorded the statements of both the parties and send the following report:-

"I have the honour to submit that Hon'ble High Court, vide its order dated 19.07.2021 passed in CRM-M-27262-2021 was pleased to direct the parties to appear before the trial Court/Illaq Magistrate for recording their statements with regard to compromise/settlement within a period of 30 days from the date of order. Further, the Hon'ble High Court has also ask to submit a report to this Court on the following points:-

- 1. Number of persons arrayed as accused in the FIR.*
 - 2. Whether any accused is proclaimed offender, and*
 - 3. Whether the compromise is genuine, voluntary and without any coercion or undue influece.*
 - 4. Whether the accused persons are involved in any other FIR or not.*
 - 5. The trial Court is also directed to record the statement of the investigating officer as to how many victims/complainants are there in the FIR.*
- Pursuant thereto, a notice to the Investigating Officer of the present case has been issued and SI Navneet Kaur Investigating Officer appeared and got recorded her separate statement to the effect*

that she was investigating officer of the present case. The present FIR has been registered only against the accused Sukhwinder Singh who is appearing before this Hon'ble Court and he has never been declared as proclaimed offender. Moreover, the victim is also complainant of the present case. The accused Sukhwinder Singh is not involved in any other criminal case at District Moga.

Afterwards, complainant/victim (name of the victim withheld) as identified by Investigating Officer of present case SI Navneet Kaur suffered a statement that she had got registered present case against accused Sukhwinder Singh alias Sukha. Now with intervention of relatives and respectables, a compromise has been effected between her and above mentioned accused person. As per compromise, she was performed the marriage with accused Sukhwinder Singh alias Sukha on dated 26.12.2020. From the day of marriage, she is residing at her matrimonial house alongwith accused Sukhwinder Singh alias Sukha. Compromise has been effected without any pressure, coercion duress, inducement and greed. She has got no objection, if FIR got registered by her with all subsequent proceedings be quashed. She has brought her original Aadhar Card in the Court and copy of the same is ExP1.

Following this, accused got recorded his separate statement to the effect that FIR of the present case was registered against him by the complainant/victim. Now with intervention of relatives and respectables, a compromise has been effected with the complainant. As per compromise, he was performed the marriage with complainant/victim on dated 26.12.2020. From the

day of marriage, she is residing at her matrimonial house alongwith him. Compromise has been effected without any pressure, coercion, duress, inducement and greed. He has brought her original Aadhar Card in the Court and copy of the same is Ex.P2. No any other criminal case is pending against him.

Thus, from the bare perusal of the abovesaid statements, it comes out that:-

- 1. There is only one accused arrayed in the FIR.*
- 2. No accused in the present is declared as proclaimed offender.*
- 3. The compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. The accused Sukhwinder Singh is not involved in any FIR at District Moga.*
- 5. There is only one complainant who is also victim of present FIR.”*

Learned counsel for the petitioner and learned counsel for respondent No.2 are *ad idem* that as an amicable settlement has been effected between the parties and have solemnized marriage, they have no objection if the FIR and subsequent proceedings are quashed.

In ***Criminal Appeal Nos. 394-395 of 2021*** titled '***Ananda D.V Versus State and another***', the proceedings were quashed after the parties eventually got married subsequent to the registration of the FIR and furthermore in '***Lovely Versus State of Punjab 2018(2) Crimes 438***' (***Punjab and Haryana***) 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

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 after having attained the age of majority has solemnized the marriage with the petitioner and are stated to be residing happily with each other.

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

As such, 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 petitioner and respondent No.2 have solemnized marriage and they both have attained the requisite age for valid marriage.

In such a situation, the 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 and respondent No.2, who are presently happily residing 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. 190 dated 01.12.2020 under Sections 376 and 506 IPC, 1860 (Section 328 IPC, 1860 added later non), registered at Police Station City Moga 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.

29.11.2021
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(VIVEK PURI)
JUDGE

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