

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

CRM-M-32634-2021

Date of decision : 13.08.2021

Tek Chand

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Yogeshwar Dayal Kaushik, Advocate
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

Mr. Jony Bansal, Advocate
for respondent No.2-complainant.

RAJESH BHARDWAJ, J.

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The petition has been filed praying for quashing of the FIR No.146 dated 27.08.2020, under Sections 313, 376(2)(n) and 506 of Indian Penal Code and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Women Police Station NIT Faridabad, District Faridabad (Haryana) and subsequent proceedings arising therefrom on the basis of mutual consent/compromise arrived between the petitioner and complainant/respondent No.2.

As per the facts of the case, the prosecutrix-respondent No.2 lodged the FIR in question alleging that she is a married woman and have three year old son. Accused Tek Chand son of Desh Raj is her husband's

friend and due to the financial crises arisen during the lockdown period, her husband had borrowed some money from accused Tek Chand. She had alleged that as the money borrowed could not be repaid in time, the accused Tek Chand took disadvantage of the same and called her on 01.06.2020 at 09:00 am at his brother's house and finding her alone, he committed rape upon the prosecutrix forcibly. Thereafter, he started blackmailing her and under threat committed rape upon the prosecutrix several times. She further alleged that in July, 2020, she got pregnant. Under pressure, she stayed with the accused Tek Chand who had extended threat to the prosecutrix that if she leaves his home then he would kill her and her husband. Finding no other alternative, she along with her husband approached the Woman Police Station and lodged the present FIR for taking legal action against the petitioner. After lodging of the FIR, the investigation commenced and police completed the investigation.

Notice of motion.

On asking of the Court, Mr. B.S. Virk, DAG, Haryana accepts notice on behalf of respondent No.1-State and Mr. Jony Bansal, Advocate puts in appearance on behalf of respondent No.2-complainant.

Counsel for the petitioner has contended that the FIR in question was lodged due to the misunderstanding and now both the parties have arrived at the compromise which has been placed on record as Annexures P-3 and P-5. Counsel for the petitioner contends that as the prosecutrix and the accused have settled the dispute amicably so the prosecution of the petitioner would be an abuse of the process of the Court. He has relied upon the judicial precedent in Gian Singh Vs. State of Punjab and another (2012) 10 Supreme Court Cases 303 and State of

Haryana Vs. Bhajan Lal, 1992 Supp(1) SCC 335. Thus, he prays that the FIR in question be quashed in view of the compromise arrived at.

Counsel for the complainant has endorsed the contentions raised by the counsel for the petitioner and has submitted that they have settled the dispute.

Mr. B.S. Virk, DAG, Haryana for the State has vehemently opposed the contentions raised by the counsel for the petitioner and the complainant. He has submitted that after registration of the FIR, the police has completed the investigation and challan under Section 173(2) Cr.P.C. has already been filed before the trial Court and now the case is fixed for framing of the charge. He submits that in the facts and circumstances, the compromise alleged has no legal sanctity and thus, prays for the dismissal of the petition.

I have heard counsel for the parties and perused the record.

There is no gainsaying that offence involved in the present case is a heinous offence and from the bare perusal of the FIR, it is apparent that serious allegations are levelled against the petitioner. The compromise as asserted by the counsel for the petitioner and that for the complainant would be of no relevance in the facts and circumstances of this case. The offence under Section 376 IPC is non-compoundable as per the mandate of Section 320 Cr.P.C. The contentions raised by the counsel regarding the judicial precedents are distinguishable in the facts and circumstances of the present case. It is apposite to mention that looking into the facts and circumstances of the present case, the parameters laid down by their Lordships in both the judgments relied upon by the counsel for the parties are not applicable and hence, compromise alleged do not

qualify the test for quashing of the present FIR under Section 482 Cr.P.C.

Thus, the petition being devoid of any merits is hereby dismissed.

13.08.2021
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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