

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

114

CRM-M-30301-2020
Date of decision : 18.02.2021

Deepak Kumar

.....Petitioner

Versus

Union Territory Chandigarh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Gopal Sharma, Advocate
for the petitioner.

Mr. Viranjeet Singh Mahal, Addl. Public Prosecutor
for respondents No.1 and 2.

Mr. Tarurag Gaur, Advocate
for respondent No.3.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

Petitioner-Deepak Kumar has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for quashing of FIR No.34 dated 18.02.2020 registered under Sections 376 and 420 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Sector-36, Chandigarh (**Annexure P-1**) with all consequential proceedings arising therefrom in view of the compromise effected with respondent No.3-**Naina**.

The above-said FIR was registered on written complaint of respondent No.3. In the written complaint respondent No.3 alleged that the petitioner had physical relations with her for the last three years. He had physical relations with her the first time on 20.01.2018 and continued the relationship upto 01.01.2020. Whenever she asked him

about the marriage, he refused flatly and said that he would not solemnize marriage with her and she could do whatever she wanted. When she talked with his mother she turned her out of the house.

While, the matter was pending for investigation, the petitioner solemnized marriage with respondent No.3 on 18.03.2020.

Now, the petitioner has filed the present petition on the averments that the disputes between the petitioner and respondent No.3 were resolved by entering into compromise. The petitioner solemnized marriage with respondent No.3 and they are residing together as husband and wife in the house of the petitioner and living a happy married life. The police has not cancelled the FIR and is threatening to arrest the petitioner. The petitioner has accordingly prayed for quashing of the FIR and consequential proceedings arising therefrom.

This Court, while issuing notice of motion vide order dated 29.09.2020, directed the private parties to appear before the trial Court/Illaq Magistrate on 12.10.2020 for recording of their statements with regard to compromise/settlement and directed the Trial Court/Illaq Magistrate to submit a report on or before 26.10.2020 regarding the authenticity and genuineness of the compromise.

In compliance with the above said order, learned Judicial Magistrate Ist Class, Chandigarh has recorded the statements of both the parties and submitted report dated 21.10.2020. The relevant part of the same reads as under:-

“After going through the statements given by complainant Naina d/o Balbir Singh w/o Deepak Kumar s/o Sh. Sunder La and Investigating Officer ASI Rajni Devi, in the Court, the following report is submitted as desired by your goodself vide order dated 29.09.2020:-

- (1) *As per allegations in FIR, statement of complainant and Investigating Officer, there is only one persons arrayed as accused in present case i.e. Deepak Kumar s/o Sh. Sunder Lal, resident of House No.2066, Rajiv Colony, Sector-17, Panchkula.*
- (2) *None of the accused person has been declared as proclaimed offender in present case.*
- (3) *On the basis of statement given by parties this Court is of the considered view that compromise between the parties is genuine and it has been effected voluntarily without any pressure, coercion or undue influence from any quarter.*
- (4) *As per statement of complainant and Investigating Officer, accused person is not involved in any other case.*
- (5) *As per statement of complainant, accused and Investigating Officer, only FIR has been registered and the case is still under investigation.*

This report along with statements of parties and annexures is submitted as desired by your goodself vide its order dated 29.09.2020 in CRM-M No.30301 of 2020.”

The petition has been opposed by the respondent No.1-State. However, no reply has been filed by the respondent-State.

I have heard learned Counsel for the petitioner, learned State Counsel for respondents No.1 and 2 and learned Counsel for respondent No.3-prosecutrix and gone through the relevant record.

Learned Counsel for the petitioner has reiterated the factual averments made in the petition and prayed for quashing of the FIR on the basis of compromise entered into by the petitioner and respondent No.3-prosecutrix. In support of his submissions learned Counsel for the petitioner has placed reliance on judgments of the Coordinate Bench of this Court passed in ***CRM-36076-2019 titled as 'Kuljot Singh Vs. State of Punjab and another' decided on 05.02.2020*** and ***CRM-20343-2019 titled as 'Ranjit Singh Vs. State of Punjab and another' decided on 12.03.2020.***

Learned Counsel for respondent No.3-prosecutrix has also submitted that in view of the compromise, the FIR and consequential proceedings arising therefrom may be quashed.

On the other hand learned Additional Public Prosecutor for U.T. Chandigarh has submitted that in view of the nature of accusation and gravity of offence punishable under Section 376 of the IPC, which is non-compoundable and has serious social impact, the petition may be dismissed.

It is now well settled that the High Court has inherent power to quash the criminal proceedings in non-compoundable cases on the basis of settlement between the parties for securing the ends of justice or to prevent abuse of the process where the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case. Criminal cases having overwhelmingly and predominantly civil character particularly those arising out of commercial transaction or arising out of matrimonial relationship or family dispute can be quashed when the parties have resolved their entire dispute among themselves. However, such power cannot be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape dacoity, etc. which are not private in nature and have a serious impact on society. Similarly, prosecution for offences alleged to have been committed under special enactments like the Prevention of Corruption Act or the offences committed by public servant while working in that capacity cannot be

quashed on the basis of compromise between the victim and the offender. For judicial precedents in this regard, reference may be made to ***Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052; Narinder Singh Vs. State of Punjab (Supreme Court) : 2014 (2) RCR (Criminal) 482 and State of Madhya Pradesh Vs. Laxmi Narayan and others (Supreme Court) : 2019 (2) RCR (Criminal) 255.***

In ***CRM-36076-2019 titled as 'Kuljot Singh Vs. State of Punjab and another' decided on 05.02.2020*** where FIR regarding alleged commission of offence of rape was registered against the accused, who made physical relations with the prosecutrix on promise to marry but subsequently refused to marry her quashed by the Coordinate Bench of this Court on the basis of compromise between the petitioner and the complainant. In that case the Coordinate Bench of this Court observed as under:-

“5. In normal circumstances, the Court would not entertain a matter when the non compoundable offences are heinous in nature and against the public. In the instant case, the offence, complained of, is under Section 376 IPC, which is an offence of grave nature. In the eyes of law, the offence of rape is serious and non-compoundable and the Courts should not in the ordinary circumstances interfere and quash the FIR that has been registered. However, there are always exceptions to the normal rules and certain categories of cases, which deserve consideration specially when it is case of love affair between teenagers and on fear of the society and pressure from the community one party alleges rape, cases where the accused and the victim are well known to each other and allegation of rape is levelled only because the accused refused to marry, as well as the age, educational maturity and the mental capacity, sequences of the same ought to be kept in mind when inclined to interfere.”

Similar view was taken in ***CRM-20343-2019 titled as***

'Ranjit Singh Vs. State of Punjab and another' decided on 12.03.2020

by the Coordinate Bench of this Court and in ***Crl. M.C. 1431 of 2020***

titled as 'Vinod @ Bishan Datt Vs. State and another' decided on

09.02.2021 by Delhi High Court where FIR registered on allegations of rape on false promise to marry was quashed in view of compromise/subsequent marriage by the accused with the prosecutrix.

In the present case, a perusal of the report of Judicial Magistrate Ist Class, Chandigarh clearly reveals that the matter has been compromised by the parties with their free consent, voluntarily and without any coercion or undue influence. The compromise has been arrived at between the parties at the initial stage.

Although the offence of rape, which is non-compoundable, has serious social impact yet where the accusation of rape arises out of breach of promise to marry the prosecutrix, the offence involved continues to be overwhelmingly and predominantly of personal character and can be allowed to be compromised.

The petitioner has solemnized marriage with respondent No.3-prosecutrix. Now, the married life of the petitioner and respondent No.3-prosecutrix cannot be allowed to be ruined by their previous differences and initiation of criminal litigation.

Further, in view of the facts and circumstances of the case, the possibility of conviction of the petitioner is remote and bleak and continuation of this case will put the petitioner to great oppression and extreme injustice would be caused to the petitioner if the FIR and all consequential proceedings are not quashed.

Accordingly, FIR No.34 dated 18.02.2020 registered under

Sections 376 and 420 of the IPC at Police Station Sector-36, Chandigarh (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

18.02.2021

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(ARUN KUMAR TYAGI)
JUDGE

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