IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

112

CRM-M-32203-2020
Date of decision : 02.03.2021

Buta Singh .....Petitioner

Versus

State of Punjab and another .....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Yashpal Thakur, Advocate
for the petitioners.

Mr. P.S. Walia, Asstt. A.G. Punjab
for respondent No.1-State.

Mr. Gaurav Arora, Advocate
for respondent No.2.

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ARUN KUMAR TYAGI, J (ORAL)

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

Petitioner-**Buta Singh** 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.15 dated 01.03.2018 registered under Sections 363 and 366-A of the Indian Penal Code, 1860 (for short "the IPC") and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act') in Police Station Amloh, District Fatehgarh Sahib (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 29.09.2020 (**Annexure P-3**) effected with respondent No.2-mother of victim girl**.**

Briefly stated, the above said FIR was registered on

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statement of respondent No.2-mother of the victim girl who inter alia alleged that her daughter, aged about 17 years 8 months, had been enticed away by Buta Singh (the petitioner) by alluring her on the pretext of performing marriage with her.

The petitioner has filed the present petition for quashing of the FIR on the grounds that the parties have settled the matter and decided to put an end to litigation between them and live in peace.

Vide order dated 05.01.2021, this Court directed the private parties to appear before the trial Court/Illaqa Magistrate on 13.01.2021 or any other date convenient to the Court for recording their statements with regard to compromise/settlement and directed the Trial Court/Illaqa Magistrate to submit a report before 05.02.2021 regarding the genuineness and voluntary nature of the compromise.

In compliance with the above said order, learned Judicial Magistrate First Class, Amloh has recorded the statements of both the parties and submitted report dated 14.01.2021. The relevant part of the same reads as under:-

> *"The complainant xx xx xx (duly indentified by her counsel Sh.KS Mann, Advocate) has got recorded her statement that FIR No.15 of 01.03.2018, under sections 363, 366-A of IPC and Section 4 of the POCSO Act,2012, PS Amloh, was registered against accused Buta Singh on her statement. She further stated that now with the intervention of respectables, a compromise has been effected with the said accused. The said compromise was reduced into writing at her instance as well as at the instance of the accused, which is true, genuine, voluntary and without any coercion or undue influence. She further stated that she identifies her signatures on the same and copy of the same is Ex.A1. There is no other accused except Buta Singh and no accused has been declared as Proclaimed Offender in the present case. She stated that she has no objection if the above said FIR and the above said consequential proceedings are quashed as a whole*

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against the accused in view of the compromise.

Accused Buta Singh (identified by Shri Imran Khan Advocate) has also got recorded his statement to the effect the FIR no.15 of 01.03.2018 under Sections 363, 366-A of IPC and Section 4 of the POCSO Act, 2012, PS Amloh, was registered against him on the statement of xx xx xx. Now with the intervention of respectables, a compromise has been effected with the complainant. He stated that the said compromise was reduced into writing at his instance as well as at the instance of complainant, which is true, genuine, voluntary and without any coercion or undue influence. He identifies his signatures on the same and copy of the same is Ex.A1. There is no other accused except him and no accused has been declared as Proclaimed Offender in the present case. He also stated that he is not involved in any other case except the present case and the above said FIR along with all the subsequent proceedings may be quashed against him in view of the compromise.

(i) It is further humbly submitted that there is only one accused namely Butta Singh arrayed in the present FIR.

(ii) No accused has been declared a proclaimed offender in the presence case.

(iii) From the statements of the parties, it seems that the compromise between the parties is genuine, voluntary and the same has been arrived at between the parties without any coercion or undue influence.

(iv) The person arrayed in the present FIR is not involved in any other case.

(v) Only FIR has been registered in the present case and challan is yet to be presented against the accused.

The complainant xx xx xx has no objection if the above said FIR is quashed against the accused Butta Singh in view of the compromise entered into between the parties." (name of complainant-mother of the victim girl is withheld in view of the provisions of the POCSO Act).

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Sh. Sukhwinder Singh, PPS, Deputy Superintendent of Police, Sub-Division Amloh, District Fatehgarh Sahib.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for respondent No.2 and gone

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through the relevant record.

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.***

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In the present case, the victim girl, aged about 17 years and 8 months, went with the petitioner out of her own free will and solemnized marriage with the petitioner and along with the petitioner filed petition bearing No.CRM-M-9901-2019 for protection of their life and liberty which was disposed of by the Coordinate Bench of this Court with direction to the Superintendent of Police, Fatehgarh Sahib to look into the grievances of the petitioners therein expressed in the representation and take appropriate action, if any, warranted in the circumstances. Subsequently, the petitioner and mother of the victim girl have also compromised and executed compromise/agreement dated 29.09.2020.

A perusal of the report of learned Judicial Magistrate First Class, Amloh clearly reveals that the matter has been compromised by the parties with their free consent, voluntarily and without any coercion or undue influence.

Learned State Counsel has opposed the petition in terms of reply filed by way of affidavit of Sh. Sukhwinder Singh PPS, Deputy Superintendent of Police, Sub-Dvision Amloh, District Fatehgarh Sahib on the ground of offences being non-compoundable.

In ***CRM-M-29808-2019 titled as 'Vishavjeet @ Pandu Vs. State of Punjab and others' decided on 13.03.2020*** FIR No.182 dated 27.10.2018 was registered on complaint of the father of the victim girl under Sections 363 and 366 of the IPC in Police Station City Sri Muktsar Sahib to which Section 376 of the IPC and Sections 3 and 4 of the POCSO Act were added lateron. The victim girl had solemnized marriage with the petitioner-accused and a daughter was also born to

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them. The FIR and all subsequent proceedings arising therefrom were quashed on the basis of compromise between the petitioner-accused and father of the victim girl.

In ***Criminal Original Petition (MD).No.3463-2020 titled as Prashant and another Vs. The State represented by Inspector of Police' decided on 28.02.2020*** the victim-girl, aged 17 years and 3 months eloped with the petitioner-accused who was arrested in case under Section 366-A of the IPC and Sections 5(l) and 6 of the POCSO registered against him on complaint of father of the victim girl. Subsequently, on intervention of the family members, the petitioner-accused married the victim-girl. Madras High Court quashed the proceedings in Spl.S.C.No.157 of 2018 on the file of the learned District and Sessions Judge, POCSO Court, Madurai in view of compromise between the parties.

The offences involved in the present case are overwhelmingly and predominantly of private character and do not have any adverse social impact. The parties have resolved the matter. The compromise has been arrived at between the parties at the initial stage. 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.

In view of the above referred judicial precedents and facts and circumstances of the case, FIR No.15 dated 01.03.2018 registered under Sections 363 and 366-A of the IPC and Section 4 of the POCSO Act

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in Police Station Amloh, District Fatehgarh Sahib (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

02.03.2021 (**ARUN KUMAR TYAGI**)
kothiyal **JUDGE**

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

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