

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202)

CRM-M-33767 of 2020 (O&M)
Date of Decision: 03.03.2021

Gurmeet Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Naveen Batra, Advocate, for the petitioner.
Mr. S.S. Deol, DAG, Punjab.
Mr. Vinod K. Kaushal, Advocate, for respondent no.2.

AMOL RATTAN SINGH, J. (Oral)

On 17.02.2021, the following order had been passed by this
court:-

“Case heard via video conferencing.

On 2.2.2021, the following order had been passed by this court:-

“Pursuant to the order dated 27.10.2020, a report dated 16.11.2020 has been received from the Sub Divisional Judicial Magistrate, Sri Anandpur Sahib, stating therein that the complainant in the FIR, i.e. Harpreet Kaur, (respondent no.2 herein) recorded her statement to the effect that the FIR in question was registered against the petitioner, Gurmeet Singh, but she with the intervention of respectable persons of the village has even solemnised marriage with him and is now living with him at her matrimonial home in village Gopalpur, Tehsil Sri Anandpur Sahib, District Rupnagar; and therefore, she does not wish take any further action against him.

The accused-petitioner also made a similar statement before that court and as per the assessment of the court the compromise entered into between the parties is genuine, voluntary and without any coercion or undue influence.

That being so, though the offence alleged to have committed would obviously be a very heinous offence, however, since the petitioner and the complainant are also stated to have got married thereafter, I would see no reason to not actually quash the FIR in question.

However, since lawyers are abstaining from work today and counsel for the complainant also is not present to reaffirm before this court the aforesaid statement recorded by respondent no.2 before the learned Magistrate, adjourned to 17.02.2021.

To be shown in the urgent motion list.”

Today, counsel for the petitioner is present but none appears for respondent no.2.

In fact the report of the Registry is that even the process fee was not filed.

Learned counsel for the petitioner submits that since the petitioner and respondent no.2 had appeared before the learned Magistrate at Anandpur Sahib and recorded their statements to the effect that they have got married to each other, he did not feel the necessity of notice being issued formally.

Whereas he otherwise may be correct in his contention, however, eventually it is this court which is to decide as to whether the FIR can be quashed or not, despite any statements recorded before the learned Magistrate even pursuant to the order passed by this court.

Consequently, notice of motion now be issued to respondent no.2, returnable on 3.3.2021, with liberty to serve her by dasti process also.

Naturally, if she comes either in person or through counsel (with a power of attorney duly executed in favour of such counsel) and reiterates her commitment to the compromise in terms of the compromise deed as has been annexed with the present petition as Annexure P-2, obviously this court may not hesitate in quashing the FIR in view of the circumstances as enumerated in the previous order.

Learned counsel for the petitioner submits that the petitioner being employed in the Indian Army, he is not being sent for a necessary course only on account of the FIR having been registered.

That being so, even though notice of motion otherwise is to be issued to respondent no.2, but in view of her statement stated to have been recorded before the learned Magistrate at Anandpur Sahib, further proceedings in the FIR shall remain stayed.

Learned State counsel would get the affidavit of a gazetted officer filed as to whether there is any other criminal case registered against the petitioner.”

Today Mr. Vinod Kumar Kaushal, Advocate, appears for respondent no.2 and has submitted his *Vakalatnama* via electronic media to the Reader of this court. He would file the power of attorney issued in his favour, in the Registry, within one week.

He reiterates that the petitioner has in fact married respondent no.1 (complainant in the FIR) and the said respondent has absolutely no grievance left against the petitioner, and therefore the FIR in question may be quashed.

Learned counsel for the State submits that as per the affidavit filed by the DSP, there is no other criminal case registered against the petitioner.

That being so, with the statements of the parties also having been recorded before the learned Magistrate, as earlier noticed by this court in its order dated 02.02.2021, the present petition is allowed and FIR no.99 dated 06.07.2020 (as also all other subsequent proceedings arising therefrom), registered at Police Station Sri Anandpur Sahib, District Rupnagar, for the alleged commission of an offence punishable under Section 376 of the IPC, is hereby quashed.

03.03.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No