

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

CRM-M-39879 of 2019 (O&M)

Decided on:- March 10, 2021.

Amrinder Singh and others

.....Petitioners.

Versus

The State of Punjab and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Rajesh K. Dadwal, Advocate
for the petitioners.

Mr. Manreet Singh Nagra, A.A.G., Punjab.

None for respondent No.2.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

CRM-27554-2020

Documents i.e. copy of order dated 18.09.2019 passed by this Court in the main case (Annexure P-5), copy of certificate dated 30.06.2018 (Annexure P-6), copy of passport of petitioner No.1 (Annexure P-7), copy of judgment dated 04.03.2020 passed by learned Additional Civil Judge (Senior Division), Zira, District Ferozepur (Annexure P-8) and photographs (Annexure P-9) are taken on record, subject to all just exceptions.

CRM stands disposed of.

CRM-M-39879 of 2019

CRM-7114-2021

The copy of judgment dated 19.01.2018 (Annexure P-10) passed by the co-ordinate Bench of this Court in **CRM-M-31825 of 2017** titled as **Deepak Versus State of Haryana and another** and the copy of judgment dated 05.03.2020 (Annexure P-11) passed by the co-ordinate Bench of this Court in **CRM-M-47266 of 2019** titled as **Pankaj @ Sikandar Kumar Versus State of U.T., Chandigarh and another** are taken on record, subject to all just exceptions.

CRM stands disposed of.

CRM-M-39879-2019

The petitioners have filed present petition under Section 482 Cr.P.C. for quashing of FIR No.84 dated 05.08.2018 under Sections 376, 420 and 120-B IPC registered at Police Station Mehtiana, District Hoshiarpur (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise deed dated 07.09.2019 (Annexure P-2).

The aforesaid FIR was registered against the petitioner at the behest of respondent No.2-complainant. As per the FIR, the prosecutrix-complainant had gone to Singapore in December, 2014 on maid work visa, where she worked as a child care-taker in Clementi city. There, she met with petitioner No.1 Amrinder Singh. Since the petitioner No.1 and respondent No.2-prosecutrix belong to the State of Punjab, they became friendly. Petitioner No.1 projected himself as unmarried and he proposed the prosecutrix-respondent No.2 for marriage to which the prosecutrix had stated that she would like to talk with her mother about the marriage proposal. One

CRM-M-39879 of 2019

day, petitioner No.1 took the prosecutrix to a hotel and he booked a room there and committed rape upon her on the pretext of marriage. Thereafter, she was taken to various places, where the offence of rape was committed. On 04.11.2017, petitioner No.1 brought her (prosecutrix) to his village, where they resided in the house of petitioner No.1. The prosecutrix asked the petitioner No.1 to solemnise marriage as per the religious rites and rituals, but the petitioner No.1 and his family members kept on putting off the matter on one pretext or the other. However, in order to satisfy the prosecutrix, petitioner No.1 had organized a reception party on 26.11.2017 in his house, where the members of both families came. Later on, the prosecutrix came to know that petitioner No.1 is already married with one Tanya resident of Patiala and had not taken divorce from her (Tanya).

Since this petition was filed for quashing of F.I.R. on the basis of compromise, this Court vide order dated 18.09.2019 had directed the parties to appear before the Illaqa Magistrate/trial Court to get their respective statements recorded with regard to compromise and the Court was directed to send its report qua genuineness of the compromise.

Pursuant to the aforesaid order, the parties had appeared before learned Judicial Magistrate 1st Class, Hoshiarpur and got their statements recorded on 04.11.2019. On the basis of the statements so recorded by the parties, learned Magistrate has submitted the report dated 27.11.2019 to the effect that the compromise is entered without any fear or favour and the same has been entered into between the parties of their free will and without any coercion or pressure.

CRM-M-39879 of 2019

Though no one has put in appearance on behalf of the respondent No.2-complainant Harvinder Kaur, but this Court finds that it would not cause any prejudice to her as she has already made her statement before learned Magistrate on 04.11.2019 in support of compromise. Her statement so recorded by learned Magistrate on 04.11.2019 reads as under:

“Stated that on my statement one FIR no.0084 dated 05.8.2018 u/s 376, 420, 120-B IPC was registered at PS Mehtiana District Hoshiarpur against the accused namely Amrinder Singh s/o Pritam Singh, Pritam Singh s/o Pooran Singh, Paramjeet Kaur w/o Pritam Singh and Gajjan Singh s/o Pooran Singh all r/o village Sillevind Tehsil Zira District Ferozepur. With the intervention of village Panchayats I have effected compromise dated 19 July 2019 with the accused which is annexed with petition before Hon’ble Punjab and Haryana High Court. All the misunderstandings between me and accused Amrinder Singh have been clarified. Copy of compromise is Ex.P1. copy of affidavit given by me before Hon’ble Punjab and Haryana High Court is Ex.P2. I do not have any ill will against accused persons and said compromise has been entered by me with my own free will and without any coercion/undue influence from the other side. The above said mentioned FIR may kindly be quashed on the basis of compromise.”

Learned counsel for the petitioner has submitted that the petitioner No.1 and respondent No.2 are staying together as husband and wife. Even the marriage between petitioner No.1 Amrinder Singh and Tanya has already been dissolved by way of decree of divorce by way of mutual consent under Section 13-B of the Hindu Marriage Act, 1955. He has referred to the copy of judgment dated 04.03.2020 passed by learned Additional Civil

CRM-M-39879 of 2019

Judge (Senior Division), Zira, District Ferozepur (Annexure P-8) in support of his contention.

He has relied upon the judgments (Annexures P-10 and P-11) passed by this Court in **Deepak's case** (supra) and **Pankaj @ Sikandar Kumar's case** (supra), whereby the FIRs in those cases registered *inter alia* under Section 376 IPC were quashed on the basis of compromise.

Learned State counsel has argued that though the petitioner No.1 and the respondent No.2-prosecutrix have solemnised marriage with each other, but it being the offence under Section 376 IPC, the FIR cannot be quashed even on the basis of compromise.

I have heard learned counsel for the parties.

Under Section 482 Cr.P.C., the inherent jurisdiction of the Court can be exercised in order to give effect to an order under the Cr.PC or to prevent the abuse of process of law or to secure the ends of justice. In **Inder Mohan Goswami Versus State of Uttaranchal (2007) 12 SCC 1**, while underlining the scope of Section 482 Cr.P.C., the Apex Court observed in paragraph Nos.23 and 24 of the judgment as under:

“23. This Court in a number of cases has laid down the scope and ambit of courts’ powers under Section 482 CrPC. Every High Court has inherent powers to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under Section 482 CrPC can be exercised:

- (i) to give effect to an order under the Code;*
- (ii) to prevent abuse of the process of the court, And*
- (iii) to otherwise secure the ends of justice.*

CRM-M-39879 of 2019

24. *Inherent powers under Section 482 Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the statute.”*

Similarly, in the case of ***State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 35***, Hon’ble the Apex Court has conducted an elaborate study of the situations where the Court may exercise its extraordinary jurisdiction and laid down a list of examples whereby quashing may be appropriate. In the said case it was noted that quashing may be appropriate where:

“102(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

xx xx xx xx xx

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

The law on the point of quashing of FIRs dealing with non-compoundable offences on the basis of compromise has been laid down by the Hon’ble Supreme Court in plethora of judgments. As held by the Hon’ble Supreme Court, powers under Section 482 Cr. P.C. are much more wider than that under section 320 Cr.P.C. The underlying object of the High Court while

CRM-M-39879 of 2019

exercising power under Section 482 Cr.P.C. in such cases, as laid down in ***Narinder Singh Versus State of Punjab (2014) 6 SCC 466***, must be to meet the ends of justice or to prevent abuse of the process of law before any court. The Supreme Court in ***State of Madhya Pradesh Versus Laxmi Narayan 2019(5) SCC 688*** has laid down that the power conferred under Section 482 of the Code, to quash the criminal proceedings for non-compoundable offences, is not to be exercised in those prosecutions which involves heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. However, the High Court would not rest its decision merely because there is a mention of such offence in the FIR. It would be open to the High Court to examine as to whether incorporation of the offence is there for the sake of it or the prosecution agencies have collected sufficient evidence, which if proved, would lead to framing of charge and the conviction, ultimately.

As far as the offence of rape is concerned, Hon'ble Supreme Court in ***State of M.P. Versus Madan Lal 2015 (7) SCC 681*** after considering ***Shimbhu and Anr. Versus State of Haryana 2014 (13) SCC 318***, has reiterated that rape is a non-compoundable offence and being an offence against the society at large, it cannot be left for the parties to compromise and settle. The Court has delivered such a ruling, doubting the genuineness of the compromise and considering the fact that the perpetrator of crime accedes to enter into wedlock with the victim in order to put pressure upon her in an adroit manner.

CRM-M-39879 of 2019

In the background of the present case when the parties have solemnised marriage and the matter has been compromised between the parties and the petitioner No.1 and respondent No.2 are staying together as husband and wife, this Court finds that the present is not one of those cases wherein the allegations are of extreme depravity, perversity and cruelty exist. In order to reach the ends of justice, this Court finds that the present is a fit case, so as to exercise the powers vested in this Court under Section 482 Cr.P.C. In fact, continuation of the proceedings before the trial Court in the instant FIR qua the petitioners would be total abuse of the process of law. The continuation of such proceedings would not only be wastage of time, but it would cause unnecessary burden on the functioning of trial Court, of course, in the background of peculiar facts as emerged in the present case.

In the present case, the prosecutrix has made a statement before the trial Court that she is not desirous of prosecuting the accused persons any further. Obviously, the petitioner No.1 and respondent No.2 have solemnised marriage and are staying together. Therefore, the chances of conviction of the petitioners in the case are quite bleak, as the prosecutrix is not likely to support the case of prosecution, as is evident from her statement made before learned Magistrate.

Thus, considering the compromise entered into between the parties and following the principles laid down by the Full Bench judgment of this Court in ***Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052*** and approved by the Hon'ble Supreme Court in ***Gian Singh Versus State of Punjab and others (2012) 10***

CRM-M-39879 of 2019

SCC 303 as well as in the light of the judgments passed by this Court in **Deepak's case** (supra) and **Pankaj @ Sikandar Kumar's case** (supra), the present petition is allowed and the of FIR No.84 dated 05.08.2018 under Sections 376, 420 and 120-B IPC registered at Police Station Mehtiana, District Hoshiarpur (Annexure P-1) and all consequential proceedings arising therefrom are quashed qua the petitioners on the basis of compromise deed dated 07.09.2019 (Annexure P-2).

March 10, 2021

Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No