

In the High Court for the States of Punjab and
Haryana at Chandigarh

CRM-M-6446-2022

Date of Decision: September 28, 2022

Akshay Kumar Yadav

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Munfaid Khan, Advocate,
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Mr. Khalid Tauru, Advocate,
for respondent No. 2.

Vivek Puri, J.

The petitioner has approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure invoking its inherent jurisdiction for quashing of FIR No. 606, dated 09.09.2021, under Sections 323, 376(2)(n) of the Indian Penal Code, registered at Police Station Sector 7, District Faridabad and all the consequential proceedings arising therefrom, on the basis of compromise dated 24.12.2021 (Annexure P-5).

Briefly, the FIR has been registered on the basis of the statement of the respondent no.2 alleging that she is aged about 25 years and was in relationship with the petitioner. They completed the study from Granthem College at Gwalior. Thereafter, since January 2019, they are residing in a room and had developed physical relations with each other. The petitioner had assured to solemnize the marriage with the respondent no.2. The petitioner had been making physical relations with the respondent no.2 against her consent on the pretext of solemnizing marriage with her. On her refusal, he had giving beatings to her.

It has been contended by the learned counsel for the petitioner, as well as, respondent no.2 that both the parties were in relationship and they have solemnized marriage on 24.11.2021. The dispute has been amicably settled between the parties. The date of birth of the respondent no.2 is 05.08.1996 as is evident from the copy of the Aadhaar Card (Annexure P/7). The marriage has been solemnized on 24.11.2021 and has been registered and Annexure P-4 is the copy of certificate of registration of marriage. The couple is stated to be happily residing together.

In terms of order dated 23.05.2022, the parties were directed to appear before the learned trial Court/Illaq Magistrate for recording their statements and the concerned Court was directed to send the report with regard to genuineness of compromise and also to intimate whether any of the accused has been declared proclaimed offender in the case.

In compliance of the order dated 23.05.2022, both the parties have appeared before the learned Judicial Magistrate 1st Class, Faridabad and got their statements recorded. It may be mentioned here that in the report the name of the complainant has been mentioned, but the same is not being reproduced in the judgment and is being referred to as 'respondent no.2'. The learned Judicial Magistrate after recording the statements of the parties, has sent the report dated 14.07.2022, which is reproduced as following:-

"(i) As per the order of the Hon'ble High Court dated 23.05.2022 in the case titled "Akshay Kumar Yadav vs.State of Haryana and another", the trial Court / Illaq Magistrate was directed to record the statements of the parties on 14.07.2022. The complainant / respondent no.2 and the accused person

namely Akshay Kumar Yadav have appeared before the Court being the Trial Court today on 14.07.2022 for the purpose of recording of their statements.

(ii) The complainant namely respondent no.2 and the accused person namely Akshay Kumar Yadav have clearly stated that they have entered into the compromise voluntarily and without any pressure. The accused person and the complainant were duly identified by their counsels i.e. Sh. Hemender Tomar, Advocate for the accused person and Sh. Deepak Sharma, Advocate for the complainant. Their power of attorneys are also on record. The Aadhar cards of the accused person along with the complainant have also been placed on record.

(iii) In the present case, as per the statement of the concerned Investigation Officer, ASI Javed Khan No. 1549, at present posted at P.S. Sector 8, (Earlier Sector -7), Faridabad, as per the FIR and the investigation, there is only one accused person named in the FIR namely Akshay Kumar Yadav in the FIR No. 606, dated 09.09.2021 under Sections 323 & 376(2)(n) IPC, P.S. Sector-7, District Faridabad.

(iv) As per the report of the concerned Investigation Officer, ASI Javed Khan No. 1549, at present posted at, P.S.

Sector 8 (Earlier Sector-7), Faridabad, none has been declared as Proclaimed Offender(s) in the present FIR No. 606 dated 09.09.2021 under Sections 323 & 376(2) (n) IPC, P.S. Sector 7, District Faridabad.

It was further stated by the Investigating Officer that the accused person is not involved in any other criminal case.

(v) As per the report of the concerned Investigation Officer, ASI Javed Khan No. 1549, at present posted at, P.S. Sector-8 (Earlier Sector-7) Faridabad and as per the record, there is only one complainant / victim namely respondent no.2 in the present FIR No. 606, dated 09.09.2021 under Sections 323 & 376 (2) (n) IPC, P.S. Sector-7, District Faridabad.

(vi) This Court is of the considered view that the compromise appears to be genuine and has been reached voluntarily and without any coercion or undue influence between the complainant namely respondent no.2 and the accused person namely Akshay Kumar Yadav and they have made their statements voluntarily and without any threat, inducement, coercion or undue influence."

Learned counsel for the parties are ad idem that as an amicable settlement has been effected between the private parties and have

solemnized marriage, it shall be appropriate to meet the ends of justice, if the FIR and subsequent proceedings are quashed.

Learned counsel for the petitioner has also sought to place reliance upon *Criminal Appeal Nos. 394-395 of 2021* titled '*Anand D.V Versus State and another*' wherein the proceedings were quashed after the parties eventually got married subsequent to the registration of the FIR. Reliance has also been placed upon *2018(2) Crimes 438* titled '*Lovely Versus State of Punjab*' wherein the proceedings were quashed after the parties had solemnized marriage and were happily residing as husband and wife.

The inherent power vested in this Court under Section 482 of the Code of Criminal Procedure is not to be invoked as a matter of routine but to prevent the abuse of power of Court and to secure ends of justice. This section gives the power to this Court to entertain applications which are not contemplated in the Code of Criminal Procedure, in the event, it is felt that the ends of justice will require that the Court can invoke the extraordinary powers which are to be exercised with restraint and not lightly. In the event, the Court is satisfied that in order to secure the

ends of justice, it should interfere under its inherent powers, it ought to do so.

It may be mentioned here that in the normal course of events, this Court may not have been inclined to quash the FIR in case of a non-compoundable offence involving the crime which is heinous and serious in nature. However, in the case in hand, respondent No.2 after having attained the age of majority has solemnized the marriage with the petitioner and are stated to be residing happily with each other.

In such circumstances, the possibility of conviction also become remote and bleak and continuation of criminal case will cause injustice not only to the petitioner but also to respondent No.2, who is now legally wedded wife of the petitioner.

As such, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice in the light of amicable settlement having been effected between the parties. Although the FIR was registered at the first instance but the petitioner and respondent No.2 were in relationship and it has materialized into

marriage. The respondent No.2 has attained the requisite age for valid marriage. In such a situation, continuation of the prosecution would result in sheer abuse of process of law. In the event, the FIR is quashed, it will be for the welfare of the parties and would also tend to strengthen the healthy matrimonial relationship between the petitioner and respondent No.2 as husband and wife.

For the aforesaid view, this Court finds support from **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, upheld by Hon'ble Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303** and **Narinder Singh and others Vs. State of Punjab and another 2014(6) SCC 466**.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No. 606, dated 09.09.2021, under Sections 323, 376(2)(n) of the Indian Penal Code, registered at Police Station Sector 7, District Faridabad and all the consequential proceedings arising therefrom, are ordered to be quashed, however, qua the petitioner only.

Resultantly, with the above-said observations made, the instant petition stands allowed.

September 28, 2022
vkd

[Vivek Puri]
Judge

Whether reasonable / speaking : Yes
Whether reportable : Yes