

**267 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-2286-2020

Date of Decision: 16.11.2022

Rahul

..... Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Pankaj Garg, Advocate, for the petitioner.

Mr. Harpreet Singh, Additional Advocate General, Punjab.

Mr. Chahat Goyal, Advocate, for respondent No.2.

Rajesh Bhardwaj, J. (ORAL)

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.201 dated 17.12.2019, registered under Sections 363, 366 IPC, at Police Station Maqboolpura, Amritsar.

In this case, notice of motion was issued on 20.01.2020, when learned counsel for the petitioner stated that the marriage of the petitioner was scheduled for 23.01.2020 and the factum of compromise and marriage of petitioner with victim was also admitted by learned counsel for respondent No.2.

FIR in question was lodged by complainant-respondent No.2 and the investigation commenced thereon. However, with the intervention of respectables, finally the parties arrived at settlement and they resolved their inter se dispute. On the basis of the compromise, the petitioner is praying that continuation of these proceedings would be a futile exercise and an abuse of process of the Court and thus, the FIR in question and all the subsequent proceedings arising therefrom may be quashed in the interest of justice.

Learned counsel for the petitioner has submitted that the

petitioner and the alleged victim both were of the age of the majority and both of them have performed marriage on 23.01.2020. He has submitted that the petitioner and the victim approached this Court by way of filing CRWP-2428-2019 seeking protection as well. He submits that thereafter, with the intervention of the respectables, they entered into compromise and the dispute between the parties has been resolved amicably. He submits that the prosecution of the petitioner in the facts and circumstances of the present case, is nothing but an abuse of the process of the Court.

Learned counsel for respondent No.2 also affirms the submissions made by learned counsel for the petitioner.

This Court vide order dated 20.01.2020 directed the parties to appear before the Illaqa Magistrate/trial Court for recording their statements, as contended before the Court, and the Illaqa Magistrate/trial Court was also directed to send its report.

In pursuance to the same, learned Judicial Magistrate First Class, Amritsar has sent its report dated 28.02.2020 to this Court. With the report, he has also annexed original statements of complainant-respondent No.2-Subhash; victim (name concealed); statement of petitioner-Rahul recorded on 20.02.2020. On the basis of the statements, learned Judicial Magistrate First Class, Amritsar has concluded in its report that compromise is genuine, voluntarily, with their free consent, without any fear, undue influence and pressure. It is further mentioned in the report that the accused person was never declared proclaimed offender in this case and challan has not been presented against him till date.

I have heard learned counsel for the parties, perused the record

and the report sent by learned Judicial Magistrate First Class, Amritsar.

A bare perusal of statutory provision of the 482 Cr.P.C. would show that the High Court may make such orders, as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Section 320 Cr.P.C. is equally relevant for consideration, which prescribes the procedure for compounding of the offences under the Indian Penal Code.

Keeping in view the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, the continuation of criminal prosecution would be a futile exercise. The Hon'ble Supreme Court in a number of cases including Narinder Singh and others Versus State of Punjab and another, 2014 (6) SCC 466; B.S.Joshi and others vs State of Haryana and another (2003) 4 Supreme Court Cases 675 followed by this Court in Full Bench case of Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052 have dealt with the proposition involved in the present case and settled the law.

Thereafter, Hon'ble Supreme Court in Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303 further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335. Para 61 of the judgment reads as under:-

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of

wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, 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 despite full and complete settlement and compromise with the victim. In other words, the

High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Applying the law settled by Hon'ble Supreme Court in plethora of judgments and this High Court it is apparent that when the parties have entered into a compromise, in the nature of cases as prescribed then continuation of the proceedings would be merely an abuse of process of the Court and by allowing and accepting the prayer of the petitioners by quashing the FIR would be securing the ends of justice, which is primarily the object of the legislature enacting under Section 482 Cr.P.C.

This Court is conscious of the fact that the prosecution of the petitioner is for the offence of kidnapping. But the facts and circumstances of the case have satisfied the Court that the continuation of the proceedings would be a futile exercise.

In the facts and circumstances, this Court finds that the case in hand squarely falls within the ambit and parameters settled by judicial precedents and hence, FIR No.201 dated 17.12.2019, registered under Sections 363, 366 IPC, at Police Station Maqboolpura, Amritsar and all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner, on the basis of compromise.

Needless to say that the parties shall remain bound by the terms

and conditions of the compromise and their statements recorded before the Court below.

Petition stands allowed.

16.11.2022

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No