

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

CRM-M-8021-2021 (O&M)

Date of Decision: February 25, 2022

Ankit

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Mohan Singh Chauhan, Advocate,
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Malkiat Singh Hundal, Advocate,
for respondent Nos. 2 and 3.

*(The case has been taken up through video conferencing on
account of Covid-19 Pandemic).*

Vivek Puri, J.

CRM-6211-2022

This is an application for placing on record the birth certificate and Aadhaar Card (Annexures P/8 and P/9). The same are taken on record.

Registry is directed to tag the Annexures P/8 and P/9 at the appropriate place.

Application stands disposed of.

CRM-M-8021-2021

The petitioner has approached this Court by way of instant petition under Section 482 Cr.P.C. invoking its inherent jurisdiction for quashing of FIR No. 239, dated 25.08.2019, under Sections 363/366-A IPC and Section 12 of POCSO Act, 2012 (added later on), registered at Police

Station Mahesh Nagar, Ambala Cantt. and all the consequential proceedings arising therefrom, on the basis of compromise.

Briefly, the FIR has been registered at the instance of the respondent no.3 alleging that on 24.08.2019 his daughter i.e. respondent no.2 had gone to market and had not returned back. She was carrying a sum of Rs. 1800/- and was 17 years of age. It was further alleged that she has been enticed by the petitioner.

It has been contended by the learned counsel for the petitioner, as well as, learned counsel for respondents no. 2 and 3 that both the parties i.e. petitioner and respondent no.2 were in relationship and they had solemnized marriage on 23.10.2020. The date of birth of the respondent no.2 is stated to be 21.07.2002 and the same date has been recorded in the Certificate of registration of marriage (Annexure P/3). Even in the Aadhaar card, copy whereof Annexure P/6, the date of birth of the respondent no.2 has been recorded as 21.07.2002. As such, the respondent no.2 has solemnized the marriage with the petitioner on attaining the age of majority. The respondent no.2 has attained the age of majority, she has solemnized the marriage with the petitioner and furthermore, a child has been born from the wedlock on 17.10.2021. Annexures P/8 and P/9 are the copy of the birth certificate and aadhaar card, respectively, of the child.

In terms of order dated 19.02.2021, the parties were directed to appear before the learned trial Court/Illaq Magistrate for recording the 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 proclaim offender in the case.

Learned Additional Sessions Judge, Ambala has recorded the statements of the parties and sent the following the report:-

“Vide order dated 19.02.2021 passed by the Hon’ble High Court in CRM-M-8021 of 2021, parties appeared as directed by the Hon’ble High Court. Complainant Surinder Kumar, father of prosecutrix, prosecutrix Yakshi and accused Ankit came present and their statements have been recorded on oath.

Complainant Surinder Kumar, father of prosecutrix made statement on oath identified by his counsel that the present case bearing FIR No. 239 dated 25.08.2019, under Section 363/366 A IPC and 12 of POCSO Act, P.S. Mahesh Nagar was lodged on the basis of his complaint moved before police. Now, a compromise has been effected with Ankit (accused). His daughter has solemnized marriage with Ankit on 23.10.2020. In this regard, a petition has also been filed before the Hon’ble High Court for compromise and this compromise has been entered by him and his daughter voluntarily of own will without any pressure. He has no grudges against Ankit (accused) and prayed that that their compromise may kindly be accepted.

Similarly, prosecutrix Yakshi has also made statement on oath that a compromise has been effected with Ankit (accused). She has solemnized marriage with Ankit on 23.10.2020. In this regard, a petition has been files before the Hon’ble High Court for compromise. This compromise has been entered by her voluntarily of her own will without any pressure. She has no grudges against Ankit and also prayed that their compromise may be accepted.

Accused namely Ankit also made separate statement on oath, identified by his counsel, that a compromise has been effected with complainant and his daughter. His marriage has been solemnized with Yakshi (daughter of complainant) on 23.10.2020. In this regard, a petition has

also been filed before the Hon'ble High Court for compromise. This compromise has been entered by him voluntarily of his own will without any pressure and prayed that their compromise be accepted. Part investigating officer of this case ASI Shanti Devi is present and has stated that in the present case, there is no other accused except accused Ankit and no proclamation proceedings are pending against any accused.

The present case was got registered on the statement of complainant Surinder Kumar against accused Ankit and the challan had been filed for the commission of offence under Sections 363 / 366 A IPC and 12 of POCSO Act, P.S. Mahesh Nagar, Ambala. There is only accused by the name of Ankit son of Dinesh Bhatt in the present case and no proclamation proceedings were initiated against him or are pending. Statements of the parties have been recorded. In view of the statements made by the complainant, her daughter (prosecutrix) and the accused, this Court is satisfied that the compromise has been arrived at between the complainant, prosecutrix and accused Ankit of their own will, voluntarily without any pressure. The above statements of the parties (in original) are being sent herewith along with the report, for your kind information.”

Learned counsel for the parties are *ad idem* that as an amicable settlement has been effected between the private parties and have solemnized marriage, they have no objection 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. Moreover, a daughter has also been born from the wedlock.

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 after respondent No.2 had attained the requisite age for valid marriage. Furthermore, the couple has also been blessed with a daughter. 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. 239, dated 25.08.2019 under Sections 363/366-A IPC and Section 12 of POCSO Act, 2012, registered at Police Station Mahesh Nagar, Ambala Cantt 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.

February 25, 2022
vkd

[Vivek Puri]
Judge

Whether reasonable / speaking : Yes / No
Whether reportable : Yes / No