

CRM-M-8905 of 2020

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

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CRM-M-8905 of 2020 (O&M)

Date of decision:15.02.2022

Arshdeep Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rahul Rampal, Advocate
for the petitioner.

Mr. P.S.Walia, AAG, Punjab
for respondent No.1.

Mr. Ankush, Advocate
for respondents No.2 and 3.

SUVIR SEHGAL J.

CRM No.43027 of 2021

Prayer in the application is for placing on record marriage photographs, marriage certificate, Wedding Invitation Card, copy of Aadhar Card as Annexure P-4 to P-7 and for exemption from filing their certified and typed copies.

Status report by way of an affidavit dated 14.02.2022 of Assistant Commissioner of Police (Central), Ludhiana, has been filed on behalf of respondent No.1-State, in compliance of the order dated 17.12.2021, which is taken on record.

For the reasons given in the application, it is allowed.

Annexures P-4 to P-7 are taken on record.

CRM-M-8905 of 2020

Instant petition has been filed under Section 482 Cr.P.C seeking quashing of FIR No.128 dated 23.08.2017 registered for offences under Sections 363, 366, 120-B of Indian Penal Code, 1860 at Police Station Division No.1, District Ludhiana (Annexure P-1) and all consequential proceedings arising therefrom, on basis of compromise dated 23.02.2020 (Annexure P-2) arrived at between the parties.

Counsel for the petitioner contends that the petitioner and respondent No.3, both of whom are of marriageable age, entered into matrimony on 09.02.2020 and are cohabiting together as husband and wife. He has placed reliance on the photographs (Annexure P-4), marriage certificate (Annexure P-5), Wedding Invitation Card (Annexure P-6) as well as Aadhar Card (Annexure P-7) of respondent No.3, wherein, she is shown to be residing at the residential address of the petitioner. Counsel contends that a compromise (Annexure P-2) has been effected between the parties with the intervention of family members and friends and the parties do not have any grudge against each other, therefore, FIR (Annexure P-1) deserves to be quashed.

Upon instructions from SI Maninder Kaur, State counsel has made a reference to the status report filed by the State. Counsel representing private respondents No.2 and 3, has supported the petitioner and submits that he does not have any objection in case the FIR is quashed.

I have heard counsel for the parties.

In order to ascertain the marital status of the parties, as well as,

the veracity of the documents, Annexures P-4 to P-7, this Court, vide order dated 17.12.2021 directed the State to ascertain the said documents. A status report has been filed by way of affidavit of Assistant Commissioner of Police (Central), Ludhiana on behalf of State-respondent No.1, wherein, it has been submitted as under:-

“3. That in compliance to the said order of this Hon'ble Court, it is respectfully submitted that SI Maninder Kuar of P.S.Division No.1, Ludhiana was deputed to verify the documents Annexures P-4 to P-7. Accordingly, the said SI contacted the Photographer, Granthi of the Gurudwara, person who printed invitation cards and also checked the Aadhaar Card of the prosecutrix and found that the said documents Annexures P-4 to P-7 are genuine. It has been further revealed that on 19.02.2020, marriage between the petitioner and the prosecutrix/respondent No.3 was performed with consent of both the parties and their family members. The date of birth of the prosecutrix/respondent No.3 is 26.11.1997 and on the date of marriage i.e. On 19.02.2020, she was 22 years -3 months. It is further submitted that on the date of occurrence i.e. 21.08.2017, the prosecutrix was 19 years – 7 months.

4. That the facts of the present case are that complainant/respondent No.2-Dharminder Singh had made a statement with the police levelling allegations that on

21.08.2017 his daughter Amanpreet Kaur/respondent No.3, aged 20 years, had gone from the house to college but has not come back and thereafter the complainant came to know that his daughter has been enticed away by the present petitioner with an intention to marry. It was further alleged that one Manjinder Singh has also played conspiracy in this matter. Accordingly, FIR No.128 dated 23.08.2017, u/s 363, 366, 120-B, IPC, P.S.Division No.1, Ludhiana was registered against the petitioner and his co-accused Manjinder Singh. The complainant/respondent No.2 had also produced Birth Certificate of his daughter/respondent No.3 on which her date of birth has been mentioned as 26.11.1997.

5. That co-accused Manjinder Singh was arrested on 24.08.2017. However, during the investigation, it was revealed that the prosecutrix/respondent No.3 has not been recovered as yet and the main accused i.e. the present petitioner has also not been arrested as yet, therefore commission of offence u/s 346, 120-B IPC only are made out in this case and therefore offences u/s 363, 366 IPC were deleted and offences u/s 346, 120-B IPC were added on 23.10.2017. Accordingly, challan was presented u/s 346, 120-B IPC against the said co-accused Manjinder Singh and ultimately he was sentenced to undergo RI for the period already undergone by him during the investigation and trial i.e. for about two months by the Court of

Varinder Kumar, PCS, Judicial Magistrate, Ist Class, Ludhiana, vide judgment dated 12.01.2018.

6. *That, however, investigation qua the present petitioner is still pending and the petitioner was to be arrested and the prosecutrix/respondent No.3 was to be recovered in the said FIR and the petitioner has now directly filed the present petition for quashing the FIR on the basis of compromise. However, from the latest developments that the prosecutrix/respondent no.3 herself had gone with the present petitioner and at that time she was 19 years – 7 months and now they have performed marriage with each other with the consent of their families, therefore, commission of offence has not been made out at this stage. Moreover, the complainant/respondent No.2 has also furnished an affidavit before the Investigating Officer on 08.02.2022 that his daughter herself had gone with the petitioner and their marriage has been performed and therefore the FIR be cancelled. Thus, the State has no objection if the said FIR is quashed by this Hon'ble Court.”*

Vide order dated 28.02.2020, while issuing notice to the respondents, this Court directed the parties to appear before the Trial Court/Illaq Magistrate to get their statements recorded regarding the compromise and a report was called for from the Court concerned regarding the genuineness of the compromise as also as to whether any PO

proceedings are pending against any of the parties. Report in compliance of the order has been received and the relevant extract thereof, is as under:-

“From the statements of the parties recorded, it appears to the Court that the parties have entered into compromise without any pressure, coercion and same have been done with the free consent of the parties. Moreover, as per the report of the concerned Ahlmad and concerned Naib Court, there are no PO proceedings pending in this Court against any of the party in this case. The copies of the statements of the parties named above are enclosed herewith for the kind perusal of the Hon'ble Punjab & Haryana High Court.”

Supreme Court in **Madan Mohan Abbot Versus State of Punjab (2008) 4 SCC 582** and in **Gian Singh Versus State of Punjab and another, 2012(4) RCR (Criminal) 543** has held that the High Court has wide power under Section 482 of the Code of Criminal Procedure, 1973 to quash an FIR or complaint having predominantly civil flavour or involving matrimonial offences and family disputes wherein the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In **Ramgopal and another Versus The State of Madhya Pradesh 2021 SCC Online 834**, Supreme Court has held that limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C.

From the record, it appears that the petitioner and respondent

No.3 are married and are cohabiting together and respondent No.2, who is father-in-law of the petitioner, has accepted the relationship and has given an affidavit to the Investigating Agency requesting for cancellation of FIR. The State also does not have any objection for quashing of FIR.

Keeping in view the above facts and circumstances, this Court is of the view that no purpose would be served in continuing with the criminal proceedings, rather setting aside of the same would enable the parties to lead a peaceful and harmonious life.

Accordingly, the petition is allowed. FIR No.128 dated 23.08.2017 registered for offences under Sections 363, 366, 120-B of Indian Penal Code, 1860 at Police Station Division No.1, District Ludhiana (Annexure P-1), along with all subsequent proceedings arising therefrom, are quashed qua the petitioner.

(SUVIR SEHGAL)
JUDGE

February 15, 2022
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes