

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

CRM-M-10703-2020 (O&M)
Date of Decision: September 30, 2022

Badal Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Suvir Sidhu, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab,
for respondents no.1 and 2.

Mr. Saurabh Sharma, Advocate and
Mr. S.S. Sodhi, Advocate,
for respondent No. 3.

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. 53, dated 21.03.2018, under Sections 376/506 of the Indian Penal Code (for short 'IPC'), registered at Police Station Talwandi Sabo, District Bathinda and all the consequential proceedings

arising therefrom, on the basis of compromise dated 21.04.2018 (Annexure P-5).

Briefly, the FIR has been registered on the basis of the statement of the respondent no.3 alleging that she is aged about 23 years and the petitioner along with respondent no.3 were studying together in the college. The respondent no.3 came in contact with the petitioner. On 11.01.2016, the respondent no.3 was taken by the petitioner to an unknown house at Talwandi Sabo where rape was committed without her consent. The petitioner also took her pictures and had been blackmailing on that score by threatening to put the same on social media.

It has been contended by the learned counsel for the petitioner, as well as, respondent no. 3 that both the parties were in relationship. The respondent no.3 is aged more than 23 years. They have solemnized marriage on 13.04.2018 and Annexure P-2 is the certificate of marriage. The date of birth of the respondent no.3 has been reflected as 05.05.1995 in the certificate and even in the FIR, her age has been depicted to be 23 years. Even at the earlier instance, the petitioner and respondent no.3 had

instituted a petition for protection to their life and liberty before the learned Sessions Judge, Bathinda. The couple is stated to be happily residing together.

In terms of order dated 16.03.2020, 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 16.03.2020, both the parties have appeared before the learned Judicial Magistrate 1st Class, Talwandi Sabo 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.3'. The learned Judicial Magistrate 1st Class after recording the statements of the parties, has sent the report dated 09.04.2021, the relevant portion whereof reads as under:-

“2. It is submitted that both the parties appeared before this Court on 06.04.2021 and

statements of petitioner/accused Badal Singh, aged about 26 years, son of Jhanda Singh, resident of Village Natt, Tehsil Talwandi Sabo, Distt. Bathinda and respondent No.3, aged 25 years, daughter of Jalour Singh, resident of Village Pitho, Tehsil Phul, Distt. Bathinda, have been recorded. Both the parties stated that the matter has been compromised between the parties voluntarily and without any threat, coercion or undue influence. They further stated that the present FIR may kindly be quashed on the basis of the compromise. Statement of Investigation Officer ASI Dharamvir Singh, No. 1490/BTI, now posted at Police Station Talwandi Sabo has also been recorded.

3. It is submitted that as per statement of Investigating Officer and as per record, there is only one accused in the present FIR, who is the petitioner in the present petition. No other person is involved in the present FIR except above said accused/petitioner. Respondent No.3 is only complainant/victim in the present FIR. It is submitted that challan under Section 173 of Code of Criminal Procedure has not been presented in the present FIR till now.

4. It is further humbly submitted that as per the statements of the parties, the compromise effected between the parties is voluntary and without any pressure.”

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 shall not be out of place to mention here that though the allegations leveled in the FIR are with regard to the commission of a serious offence, which is non-compoundable, but in the case in hand, the respondent no.3 having attained the age of majority has voluntarily solemnized marriage with the petitioner and are stated to be residing happily.

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.3, 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 it has materialized into marriage. The respondent No.3 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.3 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. 53, dated 21.03.2018, under Sections 376/506 IPC, registered at Police Station Talwandi Sabo, District Bathinda 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 30, 2022
vkd

[Vivek Puri]
Judge

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