

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-5009-2022 IN/AND
CRM-M-35578-2020 (O&M)
Date of Decision: March 21, 2022

Parampreet Singh @ Harry

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Vishal Goel, Advocate,
for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

Mr. Parveen Sharma, Advocate,
for respondents no.2 and 3.

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

Vivek Puri, J.

CRM-5009-2022

This is an application for pre-poning the
main case, which is stated to be fixed for
04.08.2022.

Notice in the application.

Mr. Anmol Singh Sandhu, Assistant
Advocate General, Punjab, accepts notice on
behalf of respondent-State and Mr. Parveen

Sharma, Advocate, accepts notice on behalf of respondents no. 2 and 3.

By recording no objection by the learned counsel for the respondents, the main case be taken up on the Board today itself.

Application stands disposed of.

CRM-M-35578-2020

The petitioner has approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure invoking the inherent jurisdiction for quashing of FIR No. 109, dated 10.09.2015, under Sections 363, 366-A/34, 109 IPC and Section 17 POCSO Act, 2012, registered at Police Station Lahori Gate, Patiala and subsequent proceedings arising therefrom, as well as, order dated 31.01.2017 passed by the learned Chief Judicial Magistrate, Patiala vide which the petitioner was declared proclaimed offender, on the basis of the compromise dated 15.02.2020 (Annexure P/3).

Briefly, the FIR has been registered on the basis of the statement of the respondent no.2 alleging that the respondent no.3, aged about 15 years, is one of his daughters. On 10.09.2015 at about 4 p.m., the complainant received a

telephonic message from his wife, who informed that the respondent no.3 was missing from the house. The efforts were made to locate her, but to no effect. It was suspected that the petitioner with the help of some other person has kidnapped the respondent no.3.

It has been contended by the learned counsel for the petitioner, as well as, the respondents no. 2 and 3 that the petitioner and respondent no.3 were in relationship and they have solemnized marriage. The respondent no.3 has attained the age of majority and the couple has also been blessed with two sons. The birth certificates pertaining to both the children have been placed on record, wherein the name of the petitioner and the respondent no.3 has been mentioned as the parents. The petitioner and respondent no.3 are residing together with the family and the respondents no.2 and 3 have no objection, if the FIR is quashed.

In terms of the order dated 06.04.2021, the parties were directed to appear before the learned trial Court/Illaq Magistrate to get their statements recorded regarding compromise and the learned trial Court/Illaq Magistrate was

directed to send the report regarding genuineness of compromise and also to intimate as to whether any PO proceedings are pending against any of the parties.

In compliance of the order dated 06.04.2021, both the parties have appeared before the learned Judicial Magistrate 1st Class, Patiala and got their statements recorded. It may be mentioned here that in the report the name of the victim 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 after recording the statements of the parties, has sent the report dated 13.05.2021, which is reproduced as following:-

"With reference to the subject cited above, it is most humbly submitted that in compliance to the above-said order, on 10.05.2021, Harinder Singh son of Joginder Singh, complainant and respondent no.3 daughter of Harinder Singh, victim and accused Parampreet Singh @ Harry son of Bhupinder Singh appeared for getting statements recorded with regard to the compromise in above-said quashing petition.

Harminster Singh, complainant and respondent no.3, victim appeared and suffered statements to the effect that FIR No. 109 dated 10.09.2015, under Section 363, 366-A, 109, 34 of Indian Penal Code and Section 17 of POCSO Act, P.S. Lahori Gate, Patiala was got registered on the basis of his statement of complainant Harminster Singh against two persons namely Parampreet Singh and Vinderjit Kaur. They stated that vide judgment dated 29.11.2017 i.e. Mark-P1, accused Vinderjit Kaur was acquitted by the Court of Dr. Rajneesh, Learned Additional Sessions Judge, Patiala. Now, they compromised the matter with the accused Parampreet Singh. They have no objection, if the above said FIR may be quashed against Parampreet Singh son of Bhupinder Singh. As per record of this file, accused Parampreet Singh was declared proclaimed person in the present case vide order dated 31.01.2017 by the Court of Ms. Poonam Bansal, learned Chief Judicial Magistrate, Patiala. They further stated that except the above two persons no other person was involved in the present case as accused or as complainant or as victim person. The present statements are given by them without any fear

pressure or coercion and the same is being suffered by them without any fear, pressure or coercion and with their own free will. They also placed on record copy of their identity cards i.e. Aadhar Card as Ex.PY and Ex.PX.

Thereafter, accused Parampreet Singh @ Harry suffered statement that above-cited FIR was got registered on the basis of statement of Harminder Singh against him and his mother namely Vinderjit Kaur. His mother was already acquitted in above-said case vide judgment dated 29.11.2017 i.e. Mark-P1. Now, he has compromised the matter with complainant and victim and they have also given their consent to quash the above-said FIR. In the present case, above-said two persons were involved. He further stated that except the above two persons no other persons no other person was involved in the present case as accused or as complainant or as victim person. The present statement is given by him without any fear, pressure or coercion and the same is being suffered by him with his free consent. He also placed on record copy of his identity card i.e. Aadhar Card as Ex.PZ.

On 13.05.2021, Retired SI Gurmail Singh No. 1833/PTA, investigating officer appeared and suffered

statement to the effect that at the time of registration of above-cited FIR he was posted at P.S. Lahori Gate, Patiala and the FIR bearing No. 109 dated 10.09.2015, under Section 363, 366-A, 109, 34 of IPC and Section 17 of POCSO Act, P.S. Lahori Gate, Patiala was got registered by Harminder Singh, complainant and respondent no.3, victim against two persons namely Parampreet Singh and Vinderjit Kaur. In the present case, no other person is involved as complainant or accused except the above mentioned persons. Accused Parampreet Singh was declared proclaimed person/proclaimed offender in the present case vide order dated 31.01.2017 by the Court of Ms. Poonam Bansal, learned Chief Judicial Magistrate, Patiala.

After carefully considering the statements of the parties, the undersigned is of considered opinion that the compromise has been effected between the parties without any undue influence, coercion or pressure and same is outcome of their free will and volition and both i.e. Harminder Singh, complainant and respondent no.3, victim have no objection if, above-said FIR is quashed by the Hon'ble High Court. It is further

submitted that after carefully going through the FIR of present case and statement of both the complainants, it is transpired that as per the version of Harminster Singh, complainant and respondent no.3, victim got registered above-cited FIR against two persons namely Parampreet Singh @ Harry and Vinderjit Kaur. According to the statement of investigating officer except these two accused no person involved in the present case. The investigating officer further stated that as per record accused Parampreet Singh was declared proclaimed person in the present case vide order dated 31.01.2017 by the Court of Ms. Poonam Bansal, Learned Chief Judicial Magistrate, Patiala. Now, Harminster Singh, complainant and respondent no.3, victim have no objection if, the present FIR is quashed against accused Parampreet Singh. The accused Vinderjit Kaur was already acquitted in above-said case vide judgment dated 29.11.2017 i.e. Mark-P1 by the Court of Dr. Rajneesh, Learned Additional Sessions Judge, Patiala. This Court is of the opinion that there is no other person whose consent for compromise is required and the present FIR in view of the complainant can be, so quashed. Accordingly, the aforementioned report

is forwarded for your kind information and necessary action."

Learned counsel for the parties are *ad idem* that an amicable settlement has been effected between the private parties. The petitioner and the respondent no.3 have solemnized marriage, they are happily residing together and even two sons have been born from the wedlock. Consequently, it has been stated that the FIR and the subsequent proceedings may be 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 have 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 non-compoundable offence involving the crime which is heinous and serious in nature. However, in the case in hand, the respondent no.3 has attained the age of majority, she has solemnized marriage with the petitioner, residing happily with him and two children have been born from the wedlock. It shall not be out of place to mention here that Vinderjit Kaur, the mother of the petitioner, was also arraigned as an accused in the instant case. She faced the trial and has been acquitted by the

Court of learned Additional Sessions Judge in terms of the judgment dated 29.11.2017. The perusal of the judgment also indicates that the respondent no.3 had never appeared during the course of trial and deposed against the accused. Even the date of birth of the respondent no.3 as established during the course of trial was 01.01.2001.

Although, the petitioner has been declared proclaimed offender in terms of the order dated 31.01.2017 (Annexure P/2), but it has not been disputed that subsequently the arrest of the petitioner was effected and he has been released on bail. It has also been stated that in pursuance of the order vide which the petitioner was declared proclaimed offender, no prosecution under Section 174-A of the Indian Penal Code has been lodged against him. It cannot be said that the powers to quash the prosecution is limited only to the matrimonial dispute alone and the same cannot be invoked to set aside the order declaring the petitioner to be proclaimed offender, in the event, the same are required to be exercised to achieve the ends of justice and prevent the abuse of process of law. It may be

true that the inherent powers under Section 482 of the Code of Criminal Procedure cannot be exercised to quash the criminal proceedings where offence is heinous in nature, but in the event, the matter overwhelmingly and pre-dominantly appears to be a private and family dispute, it shall be appropriate to quash the FIR and the entire subsequent proceedings to put a quietus to the matter.

As such, this Court is of the opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, so as to secure the ends of justice in the light of amicable settlement having been effected between the parties. The FIR has been registered at the instance of respondent no.2. The petitioner and the respondent no.3 were in relationship. The respondent no.3 has attained the age of majority and the relationship has materialized into marriage. Furthermore, two children have been born from the wedlock and the petitioner and the respondent no.3 are stated to be happily residing with the family. Even the respondent no.2 has accepted the marriage of the petitioner with his

daughter. The mother of the petitioner, who faced trial, has been acquitted by the trial Court. In such a situation, continuation of prosecution would result in sheer abuse of process of law. In the event, FIR and the subsequent proceedings qua the petitioner are quashed, it will be for the welfare of the parties and would also tend to strengthen the healthy matrimonial relationship between the petitioner and the respondent no.3 as husband and wife. Even it shall be beneficial for the petitioner to maintain cordial relations with the family of his in-laws.

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. FIR No. 109, dated 10.09.2015, under Sections 363, 366-A/34, 109 IPC and Section 17 POCSO Act, 2012, registered at

Police Station Lahori Gate, Patiala and subsequent proceedings arising therefrom, including the order dated 31.01.2017 passed by the learned Chief Judicial Magistrate, Patiala vide which the petitioner was declared proclaimed offender, are ordered to be quashed, qua the petitioner only.

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

March 21, 2022
vkd

[Vivek Puri]
Judge

Whether reasonable / speaking	:	Yes
Whether reportable	:	Yes