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

CRM-M-32911-2019 (O&M)
Date of Decision: April 01, 2022

Dinesh Kumar

…. Petitioner

Versus

State of Punjab and another

… Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Naresh Kumar Manchanda,
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Mr. Rohit Sapehiya, Advocate for
Mr. Madan Bhandari, Advocate,
for respondent No.2.

Vivek Puri, J.

CRM-10429-2022

The applicant-petitioner seeks to place on record the copies of PAN Card and Aadhar Card (Annexures P-5 and P-6) respectively of respondent no.2.

By recording no objection of the learned counsel opposite, the same are taken on record.

Registry is directed to tag Annexures P-5 and P-6 at the appropriate place.

Application is disposed of.

VIRENDER KUMAR
2022.04.01 16:55
I attest to the accuracy and
authenticity of this document

CRM-M-32911-2019

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. 71, dated 13.07.2019, under Section 376 of the Indian Penal Code, registered at Police Station Balongi, District SAS Nagar and all the consequential proceedings arising therefrom, on the basis of compromise.

Briefly, the FIR has been registered on the basis of the statement of respondent no.2 alleging that she was having friendly relations with the petitioner for the last two years. On 25.06.2019, the petitioner took the respondent no.2 to his brother's house at Balongi, Punjab, and had forcibly done wrong act without her consent.

It has been contended by the learned counsel for the petitioner, as well as, learned counsel for respondent no.2 that both the parties were in relationship and they had solemnized marriage on 02.07.2019. The date of birth of the respondent no.2 is 27.08.2000 as reflected in the copies of Aadhar Card and PAN Card. Annexure P/2

VIRENDER KUMAR
2022.04.01 16:55
I attest to the accuracy and
authenticity of this document

is the marriage certificate which also indicates that the marriage was solemnized by them of their free will and in accordance with Hindu Rites. They have also presented a petition seeking protection to their lives and liberty and the same was disposed of in terms of order dated 08.07.2019 passed in CWP-18176-2019. A compromise has been effected between the parties. The respondent no.2 was more than 18 years of age at the time of occurrence and has voluntarily solemnized marriage with the petitioner. Respondent no.2 has no objection, if the FIR is quashed.

On 31.10.2019, the parties were directed to appear before the learned the Illaqa Magistrate/trial Court for recording their statements with regard to compromise and it was further directed that after recording their statements, the learned Illaqa Magistrate/trialCourt shall send the following information:-

> *"1. Whether there is any other accused other than the petitioners, arrayed in this petition.*
> *2. Whether there is any other complainant or affected / aggrieved*

VIRENDER KUMAR
2022.04.01 16:55
I attest to the accuracy and
authenticity of this document

party other than the respondents, arrayed in the petition."

In compliance of the order dated 31.10.2019, both the parties have appeared before the learned Judicial Magistrate 1st Class, Kharar 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.2'. The learned Judicial Magistrate after recording the statements of the parties, has sent the report dated 09.12.2019, which is reproduced as following:-

"The statements of the complainant respondent no.2 and accused Dinesh Kumar have been recorded by the Court as per the directions of the Hon'ble High Court vide order dated 31.10.2019. Complainant respondent no.2 has suffered a statement that in the above said FIR only one person namely Dinesh Kumar was arrayed as accused in the present case and she has compromised the matter in dispute with the accused Dinesh Kumar and the compromise is without any fear and pressure, coercion or undue influence. She further stated that he (sic. She) has seen the copy of compromise, which

VIRENDER KUMAR
2022.04.01 16:55
I attest to the accuracy and
authenticity of this document

is correct. She further stated that she has no objection, if the present FIR is quashed by the Hon'ble High Court against accused Dinesh Kumar. She has further placed on record photocopy of her Aadhar Card as Mark-A and copy of compromise as Mark-A1. Same statement has been recorded by the appearing accused namely Dinesh Kumar and he has also placed on record, photocopy of his Aadhar Card as Mark-B.

However, this Court is satisfied after examining the parties personally that compromise is genuine and correct and the parties are not under any pressure, threat, undue influence etc. and are making compromise out of their free will. Further, as per the statement of I.O. SI Amandeep Kaur in the present FIR, there is only one accused Dinesh Kumar involved in the present case. She further stated there is no complainant or affected / aggrieved party other than the complainant (respondent) respondent no.2 arrayed in the present case. The present case is at the stage of awaiting police report. In this regard, statements of the parties are also recorded by this Court and the same are sent herewith for your kind perusal.

Hence, the report is submitted."

VIRENDER KUMAR
2022.04.01 16:55
I attest to the accuracy and
authenticity of this document

Learned counsel for the parties are *ad idem* that as an amicable settlement has been effected between the private parties and they 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

VIRENDER KUMAR
2022.04.01 16:55
I attest to the accuracy and
authenticity of this document

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 not be appropriate for the Court to quash the FIR in a case of non-compoundable offence involving the crime which is heinous and serious in nature. However, in the case in hand, respondent No.2 had attained the age of majority at the time of occurrence and subsequently solemnized the marriage with the petitioner and are stated to be residing happily with each other.

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

VIRENDER KUMAR
2022.04.01 16:55
I attest to the accuracy and
authenticity of this document

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. The respondent No.2 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.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

VIRENDER KUMAR
2022.04.01 16:55
I attest to the accuracy and
authenticity of this document

ends of justice, FIR No. 71 dated 13.07.2019 under Section 376 IPC, registered at Police Station Balongi, District SAS Nagar 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.

April 01, 2022 **[Vivek Puri]**
vkd **Judge**

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

VIRENDER KUMAR
2022.04.01 16:55
I attest to the accuracy and
authenticity of this document