

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

CRM-M-35444-2019 (O&M)

Date of Decision: February 28, 2022

Gopal

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. D.S. Adlakha, Advocate,
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Navjeet Singh, Advocate,
for respondent No. 2.

Vivek Puri, J.

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. 18, dated 27.04.2018, under Section 376 of the Indian Penal Code, registered at Police Station Women Police Sation, District Panchkula 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 had developed physical relations

with the petitioner with her own consent as the petitioner represented that he will solemnize marriage with her. Subsequently, the petitioner refused to solemnize marriage.

It has been contended by the learned counsel for the petitioner, as well as, respondent no.2 that the dispute has been amicably settled between the parties. The date of birth of the respondent no.2 is 02.07.1998 and they have solemnized marriage on 22.07.2019 and Annexure P/2 is the certificate in this regard. Furthermore, after the marriage a child has also been born from the wedlock on 12.05.2020 and the copy of the birth certificate has been placed on record. The couple is stated to be happily residing together with the family.

In terms of order dated 28.01.2020, 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 proclaimed offender in the case.

In compliance of the order dated 28.01.2020, both the parties have appeared before

the learned Judicial Magistrate 1st Class, Panchkula 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 20.02.2020, which is reproduced as following:-

"I have the honour to submit that vide order dated 28.01.2020 passed by the Hon'ble Punjab and Haryana High Court in CRM-M No. 35444-2019 (cited as subject), Trial Court/Illaq Magistrate had been directed to record the statement of the parties on 24.02.2020 with regard to compromise, subject to satisfaction of the Illaq Magistrate/Trial Court. Report in this regard has been called on or before 24.03.2020. The statement of the parties has been recorded by the court of undersigned being Illaq Magistrate of Women Police Station, Panchkula. On 17.02.2020, the complainant - respondent no.2 made a statement on oath that matter has been compromised with Gopal in the proceedings of FIR No. 18 dated 27.04.2018 under Section 376 IPC registered at Police Station,

Women, Panchkula. Compromise has been effected by her with her sweet will and without any pressure. They have solemnized marriage and they are living together as husband and wife. Further, she has no objection if the FIR is quashed against the accused. On the same day, the accused Gopal made his statement on oath that the matter has been compromised with the complainant. He has heard the statement of complainant given in the court which is correct. The compromise has been effected with their free will and consent and without any pressure. After recording the statements of complainant - respondent no.2 as well as accused Gopal, this Court is of the considered view that both the parties have made their statements as per their own free will and without any pressure and compromise is genuine and voluntary. It is further submitted that as per the record available on case file, PO proceedings are not pending against any party of the present case. Original copy of the statements of the complainant and accused are being transmitted to the Hon'ble High Court for further proceedings."

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 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 son has also been born from the wedlock on 12.05.2020 i.e. during the pendency of the present petition.

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. The respondent No.2 has attained the requisite age for valid marriage. Furthermore, the couple has also been blessed with a son. 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. 18 dated 27.04.2018 under Section 376 IPC, registered at Police Station Women Police Station, District Panchkula 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.

March 28, 2022
vkd

[Vivek Puri]
Judge

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