

**sIn the High Court for the States of Punjab and Haryana
at Chandigarh**

CRM-M-35873-2019

Date of Decision: August 23, 2022

Hardev Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. A.S. Khinda, Advocate,
for the petitioners.

Ms. Ruchika Sabherwal, DAG, Punjab.

Mr. Paras Khindri, Advocate for
Mr. Harjinder Singh, Advocate,
for respondent no.2.

Vivek Puri, J.

The petitioners have 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. 55, dated 10.09.2016, under Sections 323, 376, 506, 120-B of the Indian Penal Code (for short 'IPC') and Section 3(1)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station Rawalpindi, Tehsil Phagwara, District Kapurthala, on the basis of compromise dated 23.07.2019 (Annexure P-2).

Briefly, the FIR has been registered on the basis of the statement of the respondent no.2, aged about 22 years, alleging that she became on friendly terms with the petitioner no.1, who developed physical relations with her. They had even gone to Dubai and used to live in a single room as a married couple. She got pregnant in the month of April, 2016. Petitioner no.1 informed his mother about the pregnancy of respondent no.2 and his mother told that on return to India, the marriage will be solemnized. On 01.09.2016, they came to India and at the airport they met respondent nos. 4 and 5, who were introduced as aunts of petitioner no.1. Respondent nos. 4 and 5 uttered derogatory remarks against the caste of the respondent no.2. They further raised a demand of Rs. 5 lakhs and get the child aborted. The whereabouts of petitioner no.1 were not known to the respondent no.2 as he had not talked to her. The respondent no.2 was not sure as to whether the petitioner no.1 is in India or has gone to Dubai.

It has been contended by the learned counsel for the petitioners, as well as, respondent no.2 that both the parties were in relationship and they had solemnized marriage on 15.09.2016 i.e. within a week from the date of the registration of the FIR. A son has been born from the wedlock on 19.12.2016. At the time of solemnizing the marriage, the age of the respondent no.2 was about 22 years. Her date of birth has been reflected as 11.07.1994 in the copy

of Aadhar Card (Annexure P-4). Petitioner no.1 and respondent no.2 cohabited for some period of time and ultimately, matrimonial dispute has cropped up between them. They had instituted a petition under Section 13-B of the Hindu Marriage Act for dissolution of marriage by mutual consent, copy whereof is Annexure P-3. A sum of Rs. 7 lakhs was paid on account of permanent alimony and the custody of the minor child was to remain with the respondent no.2. The marriage of the petitioner no.1 and the respondent no.2 has been dissolved by a decree of divorce by mutual consent in terms of the judgment and decree dated 08.07.2020 passed by the Court of learned District Judge, Kapurthala. Even as per the report received from the learned trial Court, after the dissolution of marriage with petitioner no.1, under Section 13-B of the Hindu Marriage Act, the respondent no.2 has solemnized second marriage with Jaspal Singh.

In terms of order dated 13.03.2020, the parties were directed to appear before the learned trial Court/Illaq Magistrate to get recorded their statements regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate was directed to send the report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party. 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 this judgment and is being referred to as 'complainant'. Learned Additional Sessions Judge, Kapurthala has recorded the statements of the parties and sent the following the report:-

"Complainant suffered statement that she has voluntarily compromised with all accused, aforementioned, without any pressure, threat out of own free will without any pressure or influence, and no grudge left against each other. She further stated that she want to live in peace and harmony and compromise is genuine. After dissolution of marriage with Hardev Singh (accused) under section 13-B of Hindu Marriage Act, she has already performed second marriage with one Jaspal Singh. Such statement of complainant is duly counter signed by Shri Mandeep Singh, Advocate, learned counsel for the complainant.

Accused Hardev Singh, Mohinder Singh, Sukhwinder Kaur, Anuj Khurana and Meena Saini suffered separate statements that instant case was got registered against them and now they have effected compromise with complainant out of their free will without any threat or promise of any kind, pressure and influence, and are left with no grudge against each other. All the accused were identified by Shri JJS Arora, Advocate, learned defence counsel.

Besides, I have also personally talked to both the parties, present in the Court regarding compromise and after talking to them, I am satisfied that the compromise between the parties has been effected voluntarily and with their free

will and consent, and I do not find any element of threat, coercion or duress in this regard. Thus, compromise seems to be genuine one.

ASI Amarjit Kaur, No. 1096/ASR, Police Station Sadar Kapurthala, Investigating Officer of this case has also appeared in the court, identified complainant as well as accused and suffered statement that in this case neither any accused remained absent nor any PO proceedings initiated against any of them. Ahlmad has also reported so.”

Learned counsel for the parties are *ad idem* that as an amicable settlement has been effected between the private parties and 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 process of the 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, it may not be appropriate 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 has attained the age of majority, solemnized marriage with the petitioner no.1 and a son has also been born from the wedlock. Unfortunately, the marriage ran into rough weather and the same has been dissolved by a decree of divorce by mutual consent. Subsequently, the respondent no.2 has solemnized second marriage.

In such circumstances, the possibility of conviction also become remote and bleak and continuation of criminal case will cause injustice to the parties.

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 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.

Although the FIR was registered at the first instance but the petitioner No.1 and respondent No.2 were in relationship and it has materialized into marriage. Petitioner No.1 and respondent no.2 were also blessed with a male child. Subsequently, the marriage has been dissolved by a decree of divorce by mutual consent. 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.

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. 55, dated 10.09.2016, under Sections 323, 376, 506, 120-B of the Indian Penal Code (for short 'IPC') and Section 3(1)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station Rawalpindi, Tehsil Phagwara, District Kapurthala is ordered to be quashed, however, qua the petitioners only.

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

August 23, 2022
vkd

[Vivek Puri]
Judge

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