

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

CRM-M-263-2022

Date of Decision: September 29, 2022

Vikrant

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Aditya Yadav, Advocate,
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Mr. Shakti Singh, Advocate for
Mr. Jitender Singh, Advocate,
for respondents No. 2 and 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. 37, dated 12.02.2020, under Sections 363, 366-A, 376 of the Indian Penal Code (for short 'IPC') and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Sadar Jhajjar and all the consequential

proceedings arising therefrom, on the basis of compromise dated 23.08.2021.

Briefly, the FIR has been registered on the basis of the statement of the respondent no.2, father of the victim, alleging that the respondent no.3/victim, who is aged about 16 years, went missing from the house. It was suspected that the petitioner has kidnapped the victim.

It has been contended by the learned counsel for the petitioner, as well as, respondents no.2 and 3 that the date of birth of the victim/respondent no.3 is 07.11.2003. Subsequent to the registration of the FIR and after attaining the age of majority, the petitioner has solemnized marriage with the victim/respondent no.3. Annexure P-2 is the copy of the wedding invitation card and Annexures P-4 to P-6 are the photographs depicting the marriage. The marriage has been solemnized with the consent and participation of the parents of respondent no.3. The respondent no.2 is the father of the victim. The respondents no.2 and 3 along with the mother of the victim have submitted affidavits (Annexures P-7 to P-9) indicating the fact of marriage. The respondent no.3 is stated to be

happily residing in the matrimonial home with the petitioner.

In terms of order dated 18.07.2022, the parties were directed to appear before the learned trial Court/Illaga 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 18.07.2022, both the parties have appeared before the learned Additional Chief Judicial Magistrate-cum-Civil Judge (Senior Division), Jhajjar 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 Additional Chief Judicial Magistrate after recording the statements of the parties, has sent the report dated 31.08.2022, the relevant para whereof reads as under:-

"On a perusal of the statements, it appears that the compromise between the parties is genuine, voluntary and without any coercion or undue

influence. As per the report of the Investigating Officer there is only one person arrayed as an accused in this case. No other accused was proclaimed offender / person in this case. Further as per the report of the Investigating Officer, there is no other case wherein the present accused has been involved and in this case, there is one complainant namely Dharmender son of Ram Kumar and one victim, namely, respondent no.3 wife of Vikrant."

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.3 after having attained the age of majority has 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.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. 37, dated 12.02.2020, under Sections 363, 366-A, 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Sadar Jhajjar 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 29, 2022
vkd

[Vivek Puri]
Judge

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