

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

339

CRM-M-12854-2021

Date of decision : 13.04.2023

Chandan Paswan

..... Petitioner

V/S

State of Punjab and Another.

..... Respondents

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Mohd. Yousaf, Advocate
for the petitioner.

Mr. Mohinder Singh Joshi, Additional A.G. Punjab.

Mr. Abdul Aziz, Advocate for respondent No.2.

AMARJOT BHATTI J. (ORAL)

1. The petitioner- Chandan Paswan has filed the instant petition under Section 482 of Cr.P.C. for quashing of FIR No.13 dated 27.02.2020, under Sections 376(2)(n), 506 of IPC, registered at Police Station City Ahmedgarh, District Sangrur and all other subsequent proceedings on the basis of compromise between the parties dated 12.03.2020 (Annexure P-4).
2. As per the facts of the case, the prosecutrix/respondent No.2 lodged the FIR alleging that she is about 20 years of age. She was residing in a rental house of Kuldeep Singh. Earlier she was married to Ranjit Chaudhary. She lived with him only for three days. He used to beat her after consuming liquor. She returned back to the house of her elder sister and took divorce from her first husband. She started residing with her parents at Ahmedgarh. During this period she came in contact with Chandan Paswan, who was residing in their mohalla. He was working at the shop of Vishal. He used to visit her

house whenever she was alone and committed rape with her forcibly. She did not disclose about the conduct of Chandan Paswan to her parents. She has narrated various incidents when he came to the house and raped her without her consent. On one occasion the matter was compromised and their marriage was to be solemnized on 27.02.2020. Thereafter, Chandan Paswan ran away from his house after locking the house. She reported the matter to the police, on the basis of which, the present FIR has been registered.

3. Learned State counsel has filed status report, which is taken on record.
4. The petitioner filed this petition for the quashing of aforesaid FIR on the basis of compromise. The petitioner and respondent No.2 were directed to appear before the trial Court/Illaq Magistrate for recording their statements on the basis of compromise. The detailed report regarding compromise has been received from the court of Judicial Magistrate 1st Class, Malerkotla dated 27.04.2023. The statement of respondent No.2 has been recorded, where she confirmed the compromise with the petitioner. She confirmed that this compromise has been effected without any pressure, coercion from any side and she has no objection regarding quashing of FIR. The petitioner-Chandan Paswan also confirmed the aforesaid fact in his separate statement.
5. Therefore, from the report of Judicial Magistrate 1st Class, Malerkotla it is clear that the compromise has been effected between the parties without any pressure, coercion or undue influence. Respondent No.2 has placed on record copy of her Aadhar Card, according to which her date of birth is 20.05.2000 (Annexure P-2). The photographs of marriage are Annexure P-

- 3, according to which she got married on 28.02.2020. The copy of marriage certificate is Annexure P-5. The affidavit of respondent No.2 is Annexure P-4. The learned Judicial Magistrate in his report also confirmed that the accused is neither involved in any other case nor has been declared as proclaimed offender.
6. The facts of the case indicate that the respondent No.2 had earlier taken divorce from her first husband and thereafter she came in contact with the petitioner. They were in relationship with each other. Their marriage was also fixed for 27.02.2020 but before that the petitioner escaped along with his family to avoid the marriage. Later on the matter was reconciled and they performed marriage on 28.02.2020. Now the petitioner and respondent No.2 are happily married couple. They have settled all their disputes.
7. The offence under Section 376(2)(n), 506 of IPC is a serious offence and is non-compoundable under Section 320 of Cr.P.C. But in order to do complete justice and to protect the future of the petitioner and respondent No.2 the compromise arrived at between them cannot be ignored. There is authority of Larger Bench of Five Judges of this High Court cited in **2007(3) R.C.R. (Criminal) 1052 tilted as Kulwinder Singh and Ors. Vs. State of Punjab and Anr.,** where it was explained that ‘there can never be any hard and fast category which can be prescribed to enable the court to exercise its power under Section 482 of Cr.P.C. The only principal that can be laid down is the one which has been incorporated in the section itself i.e. to prevent abuse of the process of any court or to secure the ends of justice.’ In the case in hand the petitioner and respondent are major and they have performed marriage. Therefore their married life cannot be disturbed for the

sake of trial in the aforesaid FIR. There is authority of Hon'ble Supreme Court of India cited in 2022(2) R.C.R. (Criminal), 603 titled as Jatin Aggarwal Vs. State of Telangana & Anr. In that case there was allegation that accused maintained physical relations with the complainant with the promise to marry. Later on the complainant got married with the accused and were living happily. In that case the Hon'ble Supreme Court of India while exercising the powers under Article 142 of the Constitution of India and to do complete justice in the matter the FIR was quashed. There is another authority of co-ordinate Bench 2020(4) R.C.R.(Criminal) 493 titled as Kuljot Singh Vs. State of Punjab and Anr. where again by following the judgment rendered in Gian Singh Vs. State of Punjab and Anr. 2012(10) SCC 303 the FIR under Section 376 of IPC was quashed in a petition under Section 482 of the Code of Criminal Procedure.

8. Therefore by relying upon the ratio of the aforesaid judgments no purpose would be served with the continuation of criminal proceedings. They have settled all their disputes and living happily. Considering these facts the petition filed by the petitioner is accepted and FIR No.13 dated 27.02.2020, under Sections 376(2)(n), 506 of IPC, registered at Police Station City Ahmedgarh, District Sangrur and the consequential proceedings arising therefrom are quashed.

The present petition accordingly stands accepted.

(AMARJOT BHATTI)
JUDGE

13.04.2023.
Sunil Devi

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No