

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

257

CRM-M-30001-2022 (O&M)
Date of decision: 20.03.2023

SAGAR AND ORS.

....Petitioner(s)

Versus

STATE OF UT CHANDIGARH AND ANR.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Jarnail Singh Saneta, Advocate for the petitioners.

Mr. Anupam Bansal, Additional PP UT Chandigarh.

Dr. Naresh Kaushik, Advocate for respondent No.2.

AMAN CHAUDHARY. J.

Present petition has been filed for quashing of FIR No.188, dated 21.12.2020, under Sections 9, 10, 11 of the Child Marriage Prohibition Act, 2006 registered at Police Station Manimajra, UT Chandigarh and all other consequential proceedings arising therefrom on the basis of the compromise dated 08.06.2022 (Annexure P-3).

Briefly put up the facts of the case are that the marriage of Simran (sister of complainant) was fixed with Rahul (elder brother of petitioner No. 1) on 05.07.2020, with a condition of marriage of complainant with the petitioner No.1, to which her mother was not agreeable as the complainant was of only 17 year of age. To this refusal Rajesh Kumar (uncle of petitioner and home guard volunteer

of the complainant) assured that Gona ceremony of the complainant will be performed after 5 years along with assurance to get the complainant a job at private cloth shop. Thus the marriage of complainant and petitioner No.1 was also solemnized on the same day, but, the complainant continued to reside at her parental house. The aggrieved mother of the complainant and Simran, lodged FIR under Protection of Child Marriage Act, 2006. However, after the death of her mother (original complainant), she was arrayed in her place and for the purpose of creating harmony in the house of her sister, she willingly compromised the matter.

Learned counsel for the petitioners pray for quashing of the FIR registered under the Prohibition of Child Marriage Act, 2006, on the basis of compromise effected between the parties. Reliance in this regard is placed on the judgements of this Court in **Shakeel Vs. State of Haryana**, CRM-M-21662-20108 decided on 05.12.2018 and **Mohamad Kabir and others Vs. State of Haryana**, CRM-M-4943-2019 decided on 13.05.2019.

Learned counsel for respondent No.2 submits that the complainant has no objection if the FIR is quashed.

Heard.

Notice of motion was issued on 14.07.2022 and vide order dated 23.08.2022, both the parties were directed to appear before the trial court for recording their statements in the context of genuineness of the compromise. The trial Court was also directed to submit its report with regard to genuineness of the compromise.

Pursuant to the aforesaid order, report dated 20.09.2022 have been received from the JMIC, Chandigarh. A perusal of the said report reveals that

statements of the concerned persons have been recorded in the present case, who has stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed and the compromise effected between them is genuine, without any undue influence and coercion. It is stated in the report that there are 13 accused. None of the accused has been declared as proclaimed offender and none of them is involved in any other FIR.

The Full Bench of this Court in **Kulwinder Singh and others Vs State of Punjab**, 2012 (3) RCR (Criminal) 1052, held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the view that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Supreme Court of India in the case of **Gian Singh Vs. State of Punjab and another**, 2012 (4) RCR (Criminal) 543, had observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment reads thus:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code.

Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. XXX---XXX”

Hon'ble The Supreme Court of India in case of **Jayrajsingh Digvijaysingh Rana Vs State of Gujrat and another**, 2012(12) SCC 401, held that where there is a partial compromise with some of the accused even then also the proceedings against the said accused should be quashed as the same would not even remotely result in his conviction.

In the case of **Shakeel and Mohammad Kabir** (supra), this Court quashed the FIR registered under the Prohibition of Child Marriage Act on basis of compromise.

In view of the judgments referred to above, perusing the report of the trial Court regarding amicable settlement between the petitioner(s) and the complainant(s), this Court finds that in a decision, based on compromise, none of the parties is a loser. Rather, a compromise not only brings peace and harmony between the parties to a dispute, but also restores tranquility in the society. After considering the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak and quashing the FIR will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

Resultantly, the present petition is allowed and FIR No.188, dated 21.12.2020, under Sections 9, 10, 11 of the Child Marriage Prohibition Act, 2006 registered at Police Station Manimajra, UT Chandigarh, and all other

consequential proceedings arising therefrom on the basis of the compromise dated 08.06.2022 (Annexure P-3), are quashed qua the petitioners.

(AMAN CHAUDHARY)
JUDGE

March 20, 2023

S.Sharma(syr)

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No