

CRM-M-39598-2021 (O&amp;M)

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

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CRM-M-39598-2021 (O&amp;M)

Date of decision : 24.05.2023

Tarun Kumar

..... Petitioner

V/S

State of Haryana and Anr.

..... Respondents

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Vivek Khatri, Advocate  
for the petitioner.

Ms. Mayuri Lakhanpal, DAG, Haryana.

Mr. Lajpat Rai, Advocate for respondent No. 2.

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**AMARJOT BHATTI J. (ORAL)**

1. The petitioner- Tarun Kumar has filed the instant petition under Section 482 of Cr.P.C. for quashing of FIR No. 161 dated 19.03.2019, under Section 376(2)(n)/315 of Indian Penal Code, registered at Police Station Palam Vihar, Gurugram (Annexure P-1) as well as subsequent Final Report u/s 173 Cr.P.C. dated 06.04.2019 (Annexure P-2) and all other subsequent proceedings arising out thereto, pertaining to the present FIR, on the basis of compromise.
2. The facts of the case are that the prosecutrix gave her statement that she was working as Staff Nurse in Metro Hospital, Palam Vihar. She started working in Vatika Hospital, Badshahpur, in the year 2016 and she was also going to Swastik Hospital. During this period she came across Dr. Tarun son of Dharambir in Swastik Hospital. They became friends. He proposed for marriage for which she accepted the proposal. Both of them left the job

from Swastik Hospital and joined in Ahmed Hospital, Sohana. They started residing in a room situated near Ahmed Hospital. Tarun had taken one room on rent and they were living as husband and wife. On 26.12.2017, Tarun developed physical relations with her and they lived there for about one and a half months. Thereafter, they again got another job in Mission Hospital, Manesar. Dr. Tarun resided in Mission Hospital, whereas, she took a room which was provided by the hospital and she lived there alongwith her friend. After 15-20 days, they shifted to Kartarpuri village and she joined Aryan Hospital. Both of them stayed together approximately for two years. During this period, she became pregnant three times and the child was aborted. In April/May 2018, she had to undergo ultrasound. In the month of December, 2018 she again conceived and was not feeling well. She left the job and started residing with her parents at the instance of Tarun. During this period, the family of Tarun used to visit them and they were aware of their relationship. It was decided that they will get married after some time. In December, 2018 she went to Tarun and had a talk with him. In January, 2019, Tarun vacated the room in Kartarpuri. He disclosed that as she was not keeping well, therefore, after getting married, they will start residing in Delhi. She had last conversation with Tarun on 07.03.2019 thereafter, his mobile phone was switched off. She disclosed these facts to her family. Ultimately, the complaint was filed, on the basis of which 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 Additional District and Sessions Judge, Gurugram dated 13.12.2021. 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 voluntary, without any threat, pressure, undue influence or coercion from any corner. She further submitted that she has no objection regarding quashing of FIR. The petitioner-Tarun Kumar has also confirmed the aforesaid fact in his separate statement.

5. The perusal of report of Additional Sessions Judge, Gurugram dated 13.12.2021 indicates that the compromise has been effected between the parties without any duress or pressure of any kind. The prosecutrix clearly stated that there is no resentment or grievance of any kind between them. The facts of the case referred above clearly indicates that the petitioner as well as respondent No. 2 are major and mature persons. They have cleared their misunderstandings. The petitioner has placed on record copy of Marriage Certificate, according to which they have performed marriage on 23.11.2019, which is Annexure P-3. The respondent No. 2 has given birth to a male child on 16.03.2021. The copy of Birth Certificate is Annexure P-4. As per the status report, after the completion of investigation, challan was presented and the prosecution evidence was under progress when the petitioner and respondent No. 2 effected compromise between them. At present, they have settled all their disputes. They are happily married couple blessed with a son on 16.03.2021.

6. The offence under Section 376(2)(n), 315 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, respondent No.2 and their minor son, 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 titled 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 No. 2 are major and they have performed marriage. Out of this wedlock, they have a son. Therefore, their married life cannot be disturbed for the sake of trial in the aforesaid FIR. There is authority of The 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.

7. 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 are living happily. Considering these facts, the petition filed by the petitioner – Tarun Kumar is accepted and FIR No. 161 dated 19.03.2019, under Section 376(2)(n)/315 of Indian Penal Code, registered at Police Station Palam Vihar, Gurugram and the consequential proceedings arising therefrom are quashed.

The present petition accordingly, stands accepted.

(AMARJOT BHATTI)  
JUDGE

24.05.2023  
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| Whether speaking/reasoned: | Yes/No |
| Whether Reportable:        | Yes/No |