

287 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH
CRM-M-41204-2020 (O&M)
Date of Decision: 12.12.2023

NARINDER KAUR @ NINDER KAUR AND OTHERS
...Petitioners
V/S

STATE OF PUNJAB AND OTHERS
...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Talwinder Singh, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG Punjab.

Mr. Amit Thakur, Advocate
for respondents No. 2 and 3.

HARPREET SINGH BRAR J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 129 dated 25.05.2019 registered under Sections 363, 366-A and 120-B of Indian Penal Code (Section 376 of IPC and Sections 3 and 4 of Protection of Children from Sexual Offences Act added later on) at Police Station Jamalpur, District Police Commissionerate Ludhiana and all subsequent proceedings arising therefrom in view of the compromise dated 18.11.2020 (Annexure P-2).

2. Learned counsel for the petitioner submits that petitioner No. 3 and respondent No. 3 have got married against the wishes of complainant-father of the prosecutrix. Two children have been born out of their wedlock and the for the last 04 years, they are cohabitating as husband and wife. Respondent No. 3-victim and prosecutrix is happily married to petitioner No. 3. Learned counsel for the petitioner has relied upon judgment of

Hon'ble Supreme Court passed in **K. Dhandapani Vs. The State by the Inspector of Police 2022 Live Law (SC) 477** while setting aside the conviction of an accused under Section 5 and 6 of the POCSO Act observed as follows:

“Dr. Joseph Aristotle S., learned counsel appearing for the State, opposed the grant of any relief to the appellant on the ground that the prosecutrix was aged 14 years on the date of the offence and gave birth to the first child when she was 15 years and second child was born when she was 17 years. He argued that the marriage between the appellant and the prosecutrix is not legal. He expressed his apprehension that the said marriage might be only for the purpose of escaping punishment and there is no guarantee that the appellant will take care of the prosecutrix and the children after this Court grants relief to him.

In the peculiar facts and circumstances of this case, we are of the considered view that the conviction and sentence of the appellant who is maternal uncle of the prosecutrix deserves to be set aside in view of the subsequent events that have been brought to the notice of this Court. This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix. We have been informed about the custom in Tamilnadu of the marriage of a girl with the maternal uncle.

For the aforesaid mentioned reasons, the conviction and sentence of the appellant is set aside in the peculiar facts of the case and shall not be treated as a precedent. The appeal is accordingly, disposed of. Pending application(s), if any, shall stand disposed of. In case, the appellant does not take proper care of the prosecutrix, she or the State on behalf of the

prosecutrix can move this Court for modification of this order.”

3. Keeping in view the fact that the parties have entered into a compromise, they were directed to appear before the trial court/Illaq Magistrate for getting their statements recorded in support of the compromise. In pursuance of the direction, a report dated 06.03.2023 has been received from Judicial Magistrate Ist Class, Ludhiana stating that the compromise arrived at between the parties is without any pressure or coercion from any one and the same is genuine one.

4. Learned Assistant Advocate General, Punjab on instructions from the Investigating Officer and learned counsel for respondents No. 2 and 3 admitted the factum of compromise and submit that in case the parties have indeed settled their dispute, the State would have no objection to the quashing of the FIR, in view of the law laid down by the Hon'ble Supreme Court.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. The parties have arrived at a compromise and settled their dispute. 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. No useful purpose would be served by disturbing the family life of petitioner No. 3 and respondent No. 3 as both of them have got married and respondent No. 3 has attained the age of majority being 18 years and 10 months old. Hon'ble Supreme Court has quashed the FIR in a rape case on

the ground of settlement between the accused and the victim for the complete justice to the parties concerned in **Saju P.R. Vs. the State of Kerala Criminal Appeal No. 1740 of 2019** decided on 22.11.2019. In **Anand D.V. Vs. State and Another, Criminal Appeal Nos. 394-395 of 2021** decided on 12.04.2021, the Hon'ble Supreme Court allowed the compromise and quashed the proceedings for rape on the ground that the accused had married the victim. In **Jatin Aggarwal Vs. State of Telangana, Criminal Appeal No. 456 of 2022** decided on 21.03.2022, the Hon'ble Supreme Court quashed the FIR under Section 376 of IPC after the accused got married to the victim. Reliance can further be made to **Kapil Gupta Vs. State of NCT of Delhi & Another SLP (Crl.) No. 5806 of 2022, 2022 SCC Online SC1030 and Manohar Deepak Pawar Vs. State of Maharashtra 2022(3) DMC 303**. Similarly, Full Bench of Delhi High Court in **Court on Its Own Motion (Lajja Devi) Vs. State 2012(4) CCR 72**, has held that FIR can be quashed if the girl after attaining age of majority affirms and reiterates her consent. Here, respondent No. 3 is a major now and has made a statement before the learned Judicial Magistrate Ist Class, Ludhiana in support of compromise.

A two judge Bench ofA two Judge Bench of the Hon'ble Supreme Court in **Shakunta Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63**, speaking through Justice V.R. Krishna Iyer, has held as under:-

“4.The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship or reunion.....”

7. Consequently, keeping in view the fact that the dispute has been

amicably settled and in view of the law laid down by the Hon'ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another, (2014) 6 SCC 466 and Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC OnLine SC 834** and Full Bench of this Court in **Kulwinder Singh Vs. State of Punjab 2007 (3) RCR (Crl.) 1052**, this petition is allowed and FIR No. 129 dated 25.05.2019 registered under Sections 363, 366-A and 120-B of Indian Penal Code (Section 376 of IPC and Sections 3 and 4 of Protection of Children from Sexual Offences Act added later on) at Police Station Jamalpur, District Police Commissionerate Ludhiana and all subsequent proceedings arising out of the same are quashed qua the petitioners only.

12.12.2023
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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