

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

**CRM-M No.53826 of 2022
Date of order: 09.10.2023**

Ashish Masih and another

.....Petitioners

Versus

State of Punjab and Ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. B.S. Bhalla, Advocate for the petitioners.
Mr. Kunwarbir Singh, AAG, Punjab.
Mr. Rajveer Singh Brar, Advocate for Mr. Shivender Pal
Singh, Advocate for respondent Nos.2 & 3.

Nidhi Gupta, J. (Oral)

Prayer in the present petition is for quashing of FIR No.147 dated 23.12.2018 (Annexure P-1) under Sections 363, 366-A, 120-B IPC (Section 376 IPC & Sections 4/6 of Protection of Chief from Sexual Offences Act, 2012 added later on) registered at Police Station Bhindi Saidan, District Amritsar (Rural) and all other consequential proceedings arising therefrom on the basis of compromise dated 20.03.2019 (Annexure P-2) arrived at between the parties.

Vide order dated 11.01.2023, learned counsel for the petitioner contended that the offence under Section 376 IPC was not made out. He had referred to the judgment dated 28.10.2022 (Annexure P/5) whereby the co-accused was acquitted in this case. The victim in her testimony as PW2 deposed that no occurrence had taken place on 18.10.2018 nor accused Manga @ Mangta Masih had enticed her away in connivance with accused Ashish Masih (petitioners herein). She was accordingly declared hostile. Accordingly, notice of motion was issued and

learned State counsel as well as counsel for respondents No.2 and 3 accepted the notice and this Court had directed the parties to appear before the concerned trial Court/Duty Magistrate for getting their statements recorded in terms of certain parameters given in the aforesaid order dated 11.01.2023 with regard to the compromise dated 20.03.2019 (Annexure P-2).

In terms of the order dated 11.01.2023 passed by this Court, parties have appeared before the Court of learned Judicial Magistrate 1st Class, Ajnala and as per his report dated 15.04.2023, duly forwarded by the learned District & Sessions Judge, Amritsar to this Court on 17.04.2023, both the parties have got recorded their respective statements in Court.

A perusal of the above said report would show that the petitioners and respondents No.2 & 3 have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioners has further submitted that the petitioners were not declared proclaimed offender in the present case.

Learned State counsel states that he has no objection in case the FIR is quashed on the basis of compromise dated 20.03.2019 (Annexure P/2) qua the petitioners.

Learned counsel for respondents No.2 & 3 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the two parties.

This Court has heard learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned Judicial Magistrate Ist Class, Ajnala, this Court finds that the matter has been amicably settled between the petitioners and respondents No.2 & 3. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

As per the Full Bench judgment of this Court in **“Kulwinder Singh and others Vs State of Punjab”, 2007 (3) RCR (Criminal) 1052**, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the proceedings where the High Court is of the opinion that the same is 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 Apex Court in the case of **“Gian Singh Vs. State of Punjab and another”, 2012 (4) RCR (Criminal) 543**, had also 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 is reproduced hereinbelow:-

“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.”

In view of what has been discussed hereinabove, the present petition is **allowed** and FIR No.147 dated 23.12.2018 (Annexure P-1) under Sections 363, 366-A, 120-B IPC (Section 376 IPC & Sections 4/6 of Protection of Chief from Sexual Offences Act, 2012 added later on) registered at Police Station Bhindi Saidan, District Amritsar (Rural) along with all other consequential proceedings arising therefrom on the basis of compromise dated 20.03.2019 (Annexure P-2) are ordered to be quashed qua the petitioners.

(Nidhi Gupta)
Judge

09.10.2023
'Amit'

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