

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-12025-2023
Date of decision: 6th February, 2024

Salinder Singh and others

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Parveen Chauhan, Advocate for the petitioners.
Mr. Neeraj Poswal, A.A.G., Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed for quashing of FIR No. 214 dated 28.10.2020 registered under Sections 363, 366 of Indian Penal Code, 1860 (for short ‘the IPC’) (Sections 328, 342, 376, 506 and 120-B of the IPC added later on), at Police Station Babain, District Kurukshetra on the basis of compromise dated 20.12.2021 (Annexure P-5).

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 28.10.2020, on the basis of a complaint filed by the father of the victim (names withheld) alleging therein that the victim who is his daughter aged about twenty years had left her house in the morning of 10:00 AM of the same day for the purpose of going to her study centre, Ladwa but did not come back. He had

made search for her but could not find her. On checking the house, an amount of ₹ 50,000/- alongwith the ornaments kept therein were also found to be missing. He raised suspicion that the present petitioner had induced her and had taken her away on the pretext of performing marriage with him. On the basis of complaint, initially a case under Sections 363 and 366 of the IPC was registered. Investigation proceedings were initiated. During investigation, the victim was recovered. Her statement under Section 164 of Cr.P.C. was recorded before the Illaqa Magistrate on 11.01.2021 and offences under Sections 328, 342, 376 and 506 read with Section 120-B of IPC were added. The victim was got medico legally examined. In the meanwhile, the present petitioner filed a CRM-M-9394-2021 before this court alongwith three more persons namely Prem Chand, Gian Kaur and Sandeep Singh. They were directed to join the investigation. They had joined the same. After completion of necessary investigation, challan was presented before the learned trial Court and now they are facing trial for commission of the aforementioned offences.

3. The present petition has been filed by the petitioner on the grounds that petitioner No.1 and respondent No.2 i.e. the victim were having affair but as they belonged to different castes, therefore, the family of respondent No.2 was dead against them. Both of them are major. On 28.10.2020, the respondent No.2 had willingly and voluntarily left her house and had performed marriage with petitioner No.1. They had been staying happily thereafter. They had also filed a petition bearing CRWP-9058-2020 on 03.11.2020 before this Court seeking protection of their life and liberty as

against respondent No.3-complainant and other family members of respondent No.2 as they were receiving information that they were dead against them. On 23.11.2020, they had gone to the house of the counsel engaged by them for the purpose of getting their statements recorded through video conferencing and while they were in the process of making entry in the office-cum-residence of their counsel, the family members of respondent No.2 forcibly abducted her by showing weapons and by extending threats to petitioner No.1. Thereafter, this fact was also brought to the notice of the Court which was dealing with CRWP-9058-2023 and thereafter notice of motion was issued for 23.11.2020. It is submitted that respondent No.2 recorded statement qua being induced by the petitioner on the pretext of performing marriage under the pressure of her family members. Now a compromise has been arrived at between them. The respondent No.2 has sworn an affidavit. She does not want to remain married with petitioner No.1. They have parted ways. She has no objection if the FIR of this case is quashed. It is also relevant to mention here that the present petitioner No.1 had also got lodged an FIR No. 416 dated 03.11.2020 under Section 365 of IPC, at Police Station Zirakpur, District SAS Nagar (Mohali) as against the family members of respondent No.2, which is also pending for trial, which also a compromise is stated to be effected.

4. Vide order dated 14.09.2023, this Court had directed the parties to appear before learned trial Court for recording their statements with regard to the compromise stated to have been effected between them and the trial Court was directed to submit a report regarding the fact that the

compromise so claimed to have been effected was genuine, voluntary and without any coercion or undue influence. Certain other directions had also been issued. In pursuance to the said order, a report has been submitted by learned trial Court on 19.10.2023.

5. A perusal of the above report shows that the petitioners and respondent No.2-complainant got their statement recorded to the effect that the matter has been compromised and they have no objection in case the FIR is quashed and that the compromise is voluntary genuine and out of free will.

6. Learned counsel for the private respondent No.2 has also reiterated the said fact and has submitted that compromise is genuine and *bonafide* and respondent No.2 has no objection in case the present FIR is quashed on the basis of the above said compromise.

7. The petitioner No.1 and respondent No.2 have performed marriage on 28.10.2020. Annexure P-2 is copy of certificate issued by Gurudwara Dashmesh Pita Patshahi Daswi (Regd.) Village Singha Devi, Tehsil Kharar, District Mohali showing that their marriage was performed on the above said date. Annexure P-5 is copy of an affidavit shown to have been sworn by respondent/prosecutrix submitting that she is not married and does not own her marriage with the petitioner. However, the compromise as effected in the Panchayat is acceptable to her and her father will be responsible for withdrawing the FIR as against the petitioner. The statements of the prosecutrix and her father have been jointly recorded before the trial Court where they have stated so. It is clearly reflected from the record that

respondent No.2 voluntarily and willingly performed marriage with petitioner No.1 and a certificate Annexure P-2 had also been issued in this regard. On the basis of compromise, they have decided to part ways which is a different matter.

8. It is well settled proposition of law that in exercise of inherent powers under Section 482 of Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before it. The powers conferred under this section are very specific and are to secure the ends of justice or to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, that such power can be exercised. It is also well settled that the powers under this Section are exercised sparingly, carefully and with caution.

9. Reference can further be made to '*Gian Singh vs. State of Punjab, (2012) 10 SCC 303*', wherein Hon'ble Supreme Court has observed that the power of the High Court in quashing a criminal complaint or an FIR, 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 accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.

10. In '*Narinder Singh and ors. vs. State of Punjab and another, (2014) 6 SCC 466*', the Hon'ble Supreme Court had observed that while exercising power under Section 482 of Cr.P.C., the High Court has to

examine as to whether the possibility of conviction of accused is remote and bleak and continuation of criminal case would put him into great oppression and prejudice and injustice would be caused to him by not quashing criminal case.

11. In the instant case, the prosecutrix is major. She did not specifically deny that she had performed married with the petitioner. In her sworn affidavit, she had submitted that she did not want to remain married with the petitioner and had no objection if the FIR lodged against him is quashed. From this, it can reasonably be presumed that the relationship between the petitioner and the prosecutrix was purely of consensual nature. The present one cannot be even stated to be a case of breach of promise to marry. Keeping in view all these circumstances, in my considered opinion, it would be to secure the ends of justice in the light of the amicable settlement having been effected between the parties and it will be for the welfare of the parties that the proceedings are ordered to be quashed. Chances of conviction of the petitioner are bleak and remote as observed in **Narinder Singh's case (supra)**. As such, while observing that continuation of the proceedings would put both the parties to great oppression and prejudice who have decided to part ways and no purpose would be served in proceeding with the case as against the petitioner, the FIR No. 214 dated 28.10.2020 registered under Sections 363, 366 of Indian Penal Code, 1860 (for short 'the IPC') (Sections 328, 342, 376, 506 and 120-B of the IPC added later on), at Police Station Babain, District Kurukshetra and the consequential proceedings arising therefrom, are ordered to be quashed qua

the petitioners on the basis of compromise dated 20.12.2021 (Annexure P-5).

[MANISHA BATRA]
JUDGE

6th February, 2024

Parveen Sharma	1. Whether speaking/ reasoned	:	Yes / No
	2. Whether reportable	:	Yes / No