

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

131

CRM-M-14451-2024(O&M)

Date of order: 20.03.2024

Ankit & Another

.....Petitioner(s)

Vs.

State of Haryana & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Amit Parashar, Advocate
for the petitioners.

Mr. Ranvir Singh Arya, Addl. AG Haryana.

Mr. Nimanyu Gautam, Advocate
for respondent No.2.

Nidhi Gupta, J.

Prayer in the present petition under Section 482 Cr.P.C.
is for quashing of FIR No.10 dated 03.02.2024 registered under Sections
376(2)(n), 376-D and 34 IPC at Police Station Women, Ballabgarh, District
Faridabad (Annexure P1) in view of compromise dated 01.03.2024
(Annexure P3) qua the petitioners.

2. Learned counsel for the petitioners inter alia submits
that petitioner No.1 was in consensual relationship with the
complainant/victim/respondent No.2 herein. It is submitted that present
FIR emanates from an altercation between both of them. However, the
same has now been resolved and a compromise dated 01.03.2024
(Annexure P3) has been entered into between the parties. It is prayed that
accordingly, present FIR be quashed on the basis of above said compromise

qua the petitioners. In support, learned counsel relies upon judgment of Hon'ble Supreme Court in **"Kapil Gupta Vs. State (NCT of Delhi) & Another" (2022) 15 SCC 44**; **"Shambhu Kharwar Vs. State of Uttar Pradesh & Another" 2022 SCC OnLine SC 1032**; **"Pramod Suryabhan Pawar Vs. State of Maharashtra & Another" (2019) 9 SCC 608**; and of this Court in **"Chandan Paswan Vs. State of Punjab & Another" Law Finder Doc ID # 2199238**; and **"Sukhmander Singh @ Mander Singh & Others Vs. State of Punjab & Another" CRM-M-2065-2020 decided on 24.01.2023 Law Finder Doc ID # 2197153**.

3. Notice of motion.

4. Mr. Ranvir Singh Arya, Addl. AG Haryana accepts notice on behalf of respondent No.1-State.

5. Mr. Nimanyu Gautam, Advocate puts in appearance on behalf of respondent No.2 and files Vakalatnama, which is taken on record. Learned counsel does not dispute the above said contentions made by learned counsel for the petitioner.

6. Learned State Counsel, on instructions, has informed that investigation is still not completed in the matter and challan has not yet been filed. He has further informed that the complainant, in her statement under Section 164 Cr.P.C., had supported the prosecution case.

7. No other argument is made on behalf of the parties.

8. I have heard learned counsel for the parties and perused the case file in detail.

9. Present FIR was registered on the basis of statement of the victim and the same reads as under:-

"Statement of Vandana D/O Bal Karan R/O DD-1783, Dabua Colony Near Puja Kirana Store Age - 25 years, Education - Graduate Mob.- 9205332414 "Stated that I am a resident of the above address. I became friends with Ankit Bhati S/o Virendra R/o Greater Noida Gautam Buddh Nagar Village Ghangaoula through Instagram in the year 2019. We used to talk to each other on my mobile number 9205332414 and Ankit on his mobile number 9555511414. Ankit promised to marry me and in December 2019 Ankit called me near Nimka Jail and took me in a white colored car. He made me sit in a car in which his uncle's son Sachin was also there. Ankit or Sachin took turns to have physical relations with me in the moving car and Ankit said that if you do not have physical relations with Sachin then I will not marry you. After this, on 14 March 2020, Ankit called me to OYO Flagship Hotel near Neemka Jail and had physical relations with me by giving the promise of marriage. Since then he has been continuously having physical relations with me and the last time he called me on 11 June 2023 to Sector-10 Hotel Dezzire and there also I asked him to marry me on his insistence, he also had physical relations with me by giving me the assurance of marriage. After this, both of us used to talk to each other on the phone and he told me on the phone that I will marry you due to which I also refused the proposal that came. On 01/02/2024, Ankit called me to Sector-52 for court marriage. When I reached here, he did not pick up my calls and switched off his phone. After that we did not talk on the phone. I want to take legal action against Ankit or Sachin. I have given this statement of my own free will without any pressure or I have read it, it is okay."Applicant: Vandana".

10. A bare perusal of the FIR shows that very serious allegations have been made therein, inasmuch as it has been alleged that the complainant was repeatedly gang raped by both the petitioners (who are cousins in relation), in turns. Such FIR/gang rape falls in the category of heinous offences and cannot be quashed on the basis of compromise. In this regard, reliance may be placed upon three-Judge Bench judgment of the Hon'ble Supreme Court in **"State of Madhya Pradesh Vs. Laxmi Narayan & Others"** Law Finder Doc ID # 1385786, wherein it has been held that *"Heinous offence - Quashing on sole ground of compromise - Offence falling in category of heinous offence and alleged to be non-compoundable as per Section 320 Cr.P.C., 1973 - Cannot be quashed on sole ground of compromise - High Court quashed criminal proceedings mechanically and even when investigation was in progress - Order passed by High Court set aside."*

(Emphasis added)

11. At this stage, Id. counsel for the petitioners has made a request to withdraw the present petition qua petitioner No.2, however, is unable to show if partial quashing of such FIR is permitted as per law. Furthermore, the petitioner can derive no benefit from the relied upon judgments as the same are distinguishable on the ground that none of the said cases was a case of gangrape. Moreover, in the said cases the accused had married the complainant. However, in the present case perusal of the compromise dated 01.03.2024 (Annexure P3) shows that there is no writing to the effect that either of the petitioners is marrying the complainant.

Even further, challan has not yet been filed in the present matter.

12.

The mandate of law is very clear. Power under Section 482 CRPC can be exercised only to a) secure the ends of justice; and b) to prevent abuse of the process of any court. Present case does not fall in either of the above categories. Thus, keeping in mind the seriousness of the allegations and the heinous nature of offence, this Court is not inclined to exercise its inherent jurisdiction under Section 482 Cr.P.C.
13.

The present petition is accordingly **dismissed**.
14.

Pending application(s) if any also stand(s) disposed of.

20.03.2024

Sunena

Whether speaking/reasoned

Whether reportable

(Nidhi Gupta)

Judge

Yes/No

Yes/No