



235 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16425-2024 (O&M)
Date of decision: 07.05.2024

DINESH KUMAR

...PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. I.P.S. Kohli, Advocate
for the petitioner. (through V.C.)
Mr. Rishabh Singla, AAG Punjab.

Mr. Sidharth Maini, Advocate
for respondent No. 2.

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. 43 dated 17.02.2024 registered under Section 376(3) of Indian Penal Code (wrongly mentioned as 376 of IPC in the FIR) and Section 6 of Protection of Children from Sexual Offences Act, 2012 at Police Station City, Kharar, District SAS Nagar and all subsequent proceedings arising therefrom on the basis of written compromise dated 15.03.2024. (Annexure P-5).

2. The following order was passed on 04.04.2024:

"This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.43 dated 17.02.2024 under Sections 376(3) of IPC (wrongly mentioned as 376 IPC in the FIR) and Section 6 of POCSO Act registered at Police Station City Kharar, District SAS Nagar (Annexure P-1) along with all subsequent proceedings arising therefrom on the basis of written compromise dated 15.03.2024 (Annexure P-5).

Learned counsel for the petitioner inter alia contends that perusal of the record clearly indicates that no offence as alleged in the FIR (supra) is made out. He has referred to the order dated 29.02.2024 and submits that the complainant who is mother of the



victim was having matrimonial dispute with her husband and she was living with the petitioner for the last four years. The victim was not liking their relationship and in order to separate the petitioner from her mother, she has made false accusations against the petitioner. He further referred to the statement of the victim recorded under Section 164 Cr.P.C. in which she has categorically stated before the concerned jurisdictional Magistrate that her mother and the petitioner are in relationship with each other for the last four years and she has never liked the petitioner. She knew her mother still loves her and she cannot remain happy with the petitioner and as such, on account of her disliking towards the petitioner, she has made these false accusations on the basis of which her mother has lodged the FIR (supra). Even she has refused her medical examination as the accusation was patently false. Learned counsel for the petitioner has placed reliance upon the ratio of law as laid down in the judgment of the Hon'ble Supreme Court passed in 'The State of Madhya Pradesh Vs. Laxmi Narayan and others ' 2019 (5) SCC 688, to contend that only because if the FIR is registered under a heinous offence, the Court would not rest its opinion only on the basis of the offences mentioned in the FIR, the basis on which the FIR (supra) is registered is required to be seen once the factual ingredients are missing and the occurrence of the offence itself is proved not to have taken place, the FIR on the basis of compromise can be quashed.

This finds force in the arguments advanced by learned counsel for the petitioner that the offence as alleged in the FIR is not made out.

Notice of motion for 07.05.2024.

At this stage, on the asking of the Court, Mr. Subhash Godara, Addl.A.G., Punjab accepts notice on behalf of respondent No.1-State and Mr. Sidharth Maini, Advocate accepts notice for respondent No.2 and files his power of attorney and admits to the factum of compromise. Copy of the paper book be supplied to them during the course of day.

Service is complete.

In the meanwhile, the parties are directed to appear before the learned trial Court/Illaq Magistrate within two weeks from today or any other date convenient to the trial Court/Illaq Magistrate, to get their statements recorded regarding compromise



and after recording their statements, learned trial Court/Illaq Magistrate is directed to send report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party on or before the date fixed i.e. 07.05.2024.

A copy of the order be sent to learned trial Court/Illaq Magistrate through fax for compliance.”

3. In compliance of the aforesaid order, a report has been received from the concerned jurisdictional Court that the compromise between the parties is genuine and arrived at without any pressure or coercion from anyone.
4. In view of the submission made by learned counsel for respondent No. 2 and compromise and the ratio of law laid down by the Hon’ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another, (2014) 6 SCC 466, Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC OnLine SC 834 and Shakuntala Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63** 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. 43 dated 17.02.2024 registered under Section 376(3) of Indian Penal Code (wrongly mentioned as 376 of IPC in the FIR) and Section 6 of Protection of Children from Sexual Offences Act, 2012 at Police Station City, Kharar, District SAS Nagar and all subsequent proceedings arising out of the same are quashed, qua the petitioner.

May 07, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |