

CRM-M-39586-2020

229 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-39586-2020 (O&M)
Date of Decision: 05.04.2024

SARABJIT SINGH @ SONY @ CYCLENDER
V/S
STATE OF PUNJAB AND OTHERS
...Petitioner
...Respondents

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gursimran Singh Bawa, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

Mr. Amardeep Singh, 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. 07 dated 13.01.2020 registered under Sections 363, 366 of Indian Penal Code (Sections 376, 346 of IPC and Section 6 of POCSO Act 2012 added later on) at Police Station Chheharta, Amritsar, District Police Commissionerate Amritsar along with all subsequent proceedings arising therefrom in view of the compromise dated 28.05.2020 (Annexure P-2).

2. The following order was passed on 27.11.2020:

“In this petition, the Petitioner, who is the accused in F.I.R No.7, dated 13.01.2020, under Sections 363 and 366 of the Indian Penal Code, 1860 (Sections 376 and 346 of the IPC and Section 6 of POCSO Act, 2012 added later on) registered at Police Station Chheharta, Amritsar, District Police Commissionerate Amritsar (Annexure P-1), has prayed for quashing of F.I.R. with all subsequent proceedings arising

therefrom, on the basis of compromise.

Ld. Counsel for the Petitioner refers to Compromise/Affidavit (Annexure P-2), and states that the matter has been amicably settled between the parties.

Notice of motion.

Mr. Hittan Nehra, Addl. Advocate General, Punjab to accept notice on behalf of Respondent No.1/State. A copy of the Paper-book be supplied to him.

Mr. Amardeep Singh, Advocate has put in appearance through Video Conferencing on behalf of Respondents No.2 and 3 and admits the factum of compromise.

In view of the matter, the parties shall appear before the Ld.Trial Court/Illaq Magistrate on 11.01.2021 for getting their statements recorded with regard to the compromise arrived at between them. Ld. Trial Court/Illaq Magistrate after ensuring their identity as well as the fact that the statements are being made by them voluntarily and without any pressure, shall record the same and will submit its report well before the next date of hearing. The Magistrate shall also report about the veracity of the compromise apart from informing the names and number of the accused involved and whether any of the accused has been declared proclaimed offender in the case. List on 06.04.2021.”

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 and in fact petitioner and daughter of respondent No. 2 are happily cohabiting as husband and wife and one child has also been born out of this wedlock.

4. Learned counsel for the petitioner further submits that the facts of the case of ***Ramji Lal Bairwa and Another Vs. The State of Rajasthan And Others***, as relied upon by this Court in the order dated 14.12.2023, are distinguishable from the present case, as in that case, the accused was teacher of the victim, however, in the present case, the petitioner and daughter of respondent No. 2-complainant, have married each other, after

falling in love. Although, the daughter of respondent No. 2 had not attained majority, when the FIR(supra) was registered, but their relationship was consensual and devoid of any *mens rea*. Learned counsel for the petitioner relies upon the ratio of law as laid down by Full Bench of Delhi High Court passed in ***Court on its Own Motion (Lajja Devi) versus State 2012(4) CCR 72*** to contend that the daughter of respondent No. 2 is major now, and as such in view of the ratio of law laid down in ***Court on its Own Motion (Lajja Devi) (supra)***, the FIR(supra) can be quashed on the basis of compromise. Further, the proximity of the age between the petitioner and daughter of respondent No. 2 must be given due consideration and a compassionate view be taken, considering their young age and nature of circumstances and specially, keeping in view the welfare of the child, born out of the wedlock. Reliance in this regard can be placed upon the following:

Sr. No.	Case Title	Court
1.	K. Dhandapani v. The State 2022(2) R.C.R.(Criminal) 987	Hon’ble Supreme Court
2.	Ananda D.V. V. State and others 2021(OLR) 1074	
3.	Kapil Gupta v. State of NCT of Delhi and others 2022(4) R.C.R.(Criminal) 497	
4.	Jatin Aggarwal v. State of Telangana and others 2022(2)R.C.R(Criminal) 603	
5.	Ranjeet Kumar v. State of H.P. and others MANU/HP/2314/2013	Himachal Pradesh High Court (DB)
6.	Narinder Kaur @ Ninder Kaur and others v. State of Punjab and others CRM-M-41204-2020	Punjab and Haryana High Court
7.	Ashik Ramjan Ansari v. The State of Maharashtra and others 2023 CriLJ 3633	Bombay High Court
8.	Sabari v. Indpector of Police, Belukurichi Police Station and others 2019(3) R.C.R(Criminal) 452	Madras High Court
9.	Jitender Kumar Sharma v. State and others	Delhi High Court (DB)

	2010(4) R.C.R.(Criminal) 20	
10.	Skhemborlang Suting and others v. State of Meghalaya and others MANU/MG/0054/2022	Meghalaya High Court
11.	Tarun Vaishnav v. State of Rajasthan and others MANU/RH/16181/2022	Rajasthan High Court
12.	Kundan and another v. State and others Crl.M.C. 27/2022	Delhi High Court
13.	Devendranath v. State of U.T. Chandigarh and Others CRM-M-23281-2023	Punjab and Haryana High Court

5. In view of the 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. 07 dated 13.01.2020 registered under Sections 363, 366 of Indian Penal Code (Sections 376, 346 of IPC and Section 6 of POCSO Act 2012 added later on) at Police Station Chheharta, Amritsar, District Police Commissionerate Amritsar and all subsequent proceedings arising therefrom, are quashed, qua the petitioner.

05.04.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

AJAY GOSWAMI
2024.04.08 18:39
I attest to the accuracy and
authenticity of this order/judgment