

2024:PHHC:117609



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

CRM M-27594 of 2024
Date of Decision: 06.09.2024

Amit ...Petitioner
Versus
State of Haryana and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Mayank Yadav, Advocate, for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

None for respondent No. 2-Suman.

Mr. Jasvinder Singh Yadav, Advocate
for respondent No. 3.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the FIR No. 284 dated 31.10.2019 under Sections 363, 366-A and 506 IPC and Section 3 of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred as '**the SC/ST Act**') registered at Police Station Sadar Narnaul, District Mohindergarh and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that Suman, respondent No. 2/mother of respondent No. 3, Shivani, had lodged

FIR No. 284 dated 31.10.2019 under Sections 363, 366-A and 506 IPC and Section 3 of the SC/ST Act, Police Station Sadar Narnaul, District Mohindergarh against the present petitioner by alleging that the petitioner had taken away Shiwani, respondent No. 3, on 31.10.2019. She further alleged that Shiwani, respondent No. 3 was minor on the date of occurrence. After the registration of the FIR, the investigation was conducted by the police and the statement of Shiwani, respondent No.3 was recorded under Section 164 Cr.P.C., in which, respondent No.3/victim, namely, Shiwani, herself stated that she had left the house on her own. She had called the petitioner and had gone to Gurugram and later, she came to know that her family members had lodged a case against the petitioner. So, the petitioner himself told her to go home. She decided not to go home and while the police was coming, they both had taken poisonous pills. After completion of the investigation, the challan was presented by the police and during the course of trial, the charge was framed against the petitioner under Sections 363 and 506 and Section 3 of the SC/ST Act. Now, the case is listed for prosecution evidence. Learned counsel has further referred to the marriage certificate (Annexure P-3) and contended that the petitioner and Shiwani, respondent No. 3 had solemnized marriage on 20.07.2022 at Gaziabad and, thereafter, both of them were residing happily as married couple. A daughter, namely, Ivanshi, was born out of their wedlock on 13.07.2023 and the birth

certificate of Ivanshi was annexed as (Annexure P-2). Learned counsel for the petitioner further contends that the petitioner and respondent knew each other since long and wanted to get married. However, respondent No. 2, her mother had opposed the idea and got the FIR (Annexure P-1) registered. Still further, respondent No. 3 had sworn an affidavit (Annexure P-4) that she had no objection in case the present FIR is ordered to be quashed by this Court.

3. On the other hand, learned State counsel submits that in the present case, final report under Section 173 Cr.P.C. was presented against the petitioner and the trial in the present case has advanced. Even, the prosecution witnesses had supported the charge against the present petitioner and the petition is not maintainable, at this stage.

4. Vide order dated 30.05.2024, this Court had directed the petitioner and respondents No. 2 and 3 to appear before the Area magistrate/trial Court to get their statements recorded with regard to the compromise. Even, the Area Magistrate/trial Court was directed to submit a report before this Court. In compliance of the order dated 30.05.2024 passed by this Court, the petitioner and Shiwani, respondent No. 3 appeared before the Court of Dr. D.N. Bhardwaj, Additional District and Sessions Judge, Narnaul, and stated that they had compromised the matter and the FIR may be quashed.

5. At this stage, it would be appropriate to reproduce the statement of Shiwani, respondent No. 3, alleged victim, which was recorded by the Court of Additional Sessions Judge, Narnaul:-

“Statement of Shiwani age 21 years d/o Hawa Singh w/o Amit s/o Billu r/o of village Guwani Teh. Narnaul Distt. Mahendergarh.

On S.A.

Stated that an FIR No. 284 dated 31.10.2019 was got registered by my mother Suman against Amit s/o Billu and thereafter the police filed the challan and now the case No. SC-31-2020 is pending in the Hon'ble Court for examination of prosecution evidence. During the pendency of this case I perform marriage with accused Amit on 20.07.2022 and presently residing with him at his house. I gave birth to a daughter namely Ivanshi and Ivanshi is also residing with us. I have compromised the matter with the accused and presently live with him as his wife. The compromise is without any pressure or coercive and the proceedings of the said case as well as FIR may kindly quashed”.

6. At this stage, it also requires to be mentioned that Suman Devi, respondent No.2/mother of the victim also appeared before the Court of Additional Sessions Judge, Narnaul, and stated that no compromise had been effected between her and Amit Kumar, accused. She also stated that her daughter was minor at the time of lodging of the FIR and she had also supported the version of the prosecution

before the trial Court. Learned State counsel further contends that even otherwise, the offences are non compoundable and the offence cannot be compounded at this stage.

7. In cases of run away marriages, this Court in ***Pardeep Kumar Singh Vs. State of Haryana 2008(3) RCR (Criminal) 376*** issued the following directions:-

"1. Whenever any intimation is received by the SSP/SP of concerned District regarding the marriage of a young couple with a threat and an apprehension of infringement of the right of life and liberty by the police at the instance of the family members of one of the spouses, the SSP/SP concerned will consider the representation and will himself/herself look into the matter and issue necessary directions to maintain a record of the said intimation under Chapter 21 of the Punjab Police Rules.

2. On receipt of above said intimation of marriage by any police officer, necessary directions will be issued to the concerned Police Station to take necessary steps in accordance with law to enquire into the matter by contracting the parents of both boy and girl. The matter regarding age, consent of the girl and grievance of her family will be determined. In the eventuality of any complaint of kidnapping or abduction having been received from any of the family members of the girl generally the boy (husband) will not be arrested unless and until the prejudicial statement is given by the girl

(wife). Arrest should generally be deferred or avoided on the immediate receipt of a complaint by the parents or family members of the girl taking into consideration the law laid down by Hon'ble Supreme Court in Joginder Kumar's case (supra);

3. If the girl is major (above 18 years), she should not forcibly be taken away by police to be handed over to her parents against her consent. Criminal force against the boy should also be avoided.

4. So far as the threat to the young couple of the criminal force and assault at the hands of the private persons is concerned, it would always be open to the police to initiate action if any substantive offence is found to have been committed against the couple;

5. In case of any threat to the breach of peace at the hands of the family members of the couple it will always be open to the State authorities to take up the security proceedings in accordance with law; 6. It will not be open to the "run away couple" to take law in their hands pursuant to the indulgence shown by the police on the basis of their representation sent to the SSP/SP of the concerned District;

7. If despite the intimation having been sent to the SSP/SP there is an apprehension or threat of violation of right of personal life and liberty or free movement, the remedy of approaching the High court should be the last resort;

8. In case there is an authority constituted for issuance of marriage certificate as per the law laid down by

Supreme Court in Seema's case (supra) in the concerned Districts, the couple of so called 'run away marriage' should get the marriage registered in compliance with the directions of the Supreme Court and a copy of the same should also be forwarded to the police along with the representations or any time subsequent thereto.

9. Nothing said here-in-above will prevent the immediate arrest of a person who fraudulently entices a girl with false promises and exploits her sexually as per the statement of the girl."

8. Still further, similar issue came up for hearing before Hon'ble Kerala High Court in CRL. MC No. 2031 of 2024 titled as **“XXXXXX and another Vs. State of Kerala and another”**, and it was held as follows:-

7. Adverting to the power of this Court to quash criminal proceedings restoring to Section 482 of the Cr.P.C. is concerned, indubitably, in respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. In a case of rape or attempt of rape, the conception of compromise under no circumstances can really be thought of. These are crimes against the body of a woman which is her own temple. These are offences which suffocate the breath of life and sully the

reputation. And reputation, needless to emphasise, is the richest jewel one can conceive of in life. No one would allow it to be extinguished. When a human frame is defiled, the "purest treasure", is lost. Dignity of a woman is a part of her non-perishable and immortal self and no one should ever think of painting it in clay. There cannot be a compromise or settlement as it would be against her honour which matters the most. It is sacrosanct. Sometimes solace is given that the perpetrator of the crime has acceded to enter into wedlock with her which is nothing but putting pressure in an adroit manner; and that the Courts are to remain absolutely away from this subterfuge to adopt a soft approach to the case, for any kind of liberal approach has to be put in the compartment of spectacular error. Or to put it differently, it would be in the realm of a sanctuary of error. Such an attitude reflects lack of sensibility towards the dignity, the elan vital, of a woman. Any kind of liberal approach or thought of mediation in this regard is thoroughly and completely sans legal permissibility. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect

on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community, but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a “settlement” through duress, threats, social boycotts, bribes or other dubious means. It is well said that “let no guilty man escape, if it can be avoided.”

*8. Thus, the law as it stands is that although High Court can invoke its jurisdiction u/s.482 Cr.P.C. even in noncompoundable offence and can quash the proceedings on the basis of settlement arrived at between the parties even in the cases of non-compoundable offences but while exercising its jurisdiction this Court must consider the fact that whether the proceeding relates to any serious and heinous offences and whether the crime in question has impact over the society. In cases of serious nature which affects the society at large this Court should not exercise its jurisdiction under Section 482 Cr.P.C. for quashing the proceedings on the basis of compromise executed between the parties. (See decisions in **Gian Singh v. State of Punjab and Another** reported in [(2012) 10 SCC 303], **Narinder Singh and Others v. State of Punjab and Another** reported in [(2014). 9 SCC 466], **Shimbhu v. State of Haryana** reported in [AIR 2014 Supreme Court 739] (three Bench), **State of Madhya***

Pradesh v. Madanlal reported in [AIR 2015 Supreme Court 3003] (two Bench), *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another* reported in [(2017) 9 SCC 641], *State of Madhya Pradesh v. Laxmi Narayan & Ors.* reported in [(2019) 5 SCC 688], *Arun Singh and Others v. State of Uttar Pradesh through its Secretary and another* reported in [(2020) (3) SCC 736], *Ram Gopal & another v. State of Madhya Pradesh* reported in [(2021 0 Supreme (SC) 529)], *Daxaben v. The State of Gujarat & others* reported in [2022 LiveLaw (SC) 642], *P.Dharmraj v. Shanmugam and others* decided on 8th September 2022 in Crl.Appeal Nos.1515-1516 of 2022).

9. Thus, settlement of cases including offence of rape and POCSO Act offences is not permissible under law. However, in the instant case, though the 1st accused after maintaining relationship with the minor victim subjected her to sexual molestation and she became pregnant, as of now, the 1st accused married the victim and now, they have been living happily with two children. In such cases, the tough nut stand in the way of settlement shall be crushed with humanitarian consideration as the hammer, so as to ensure the peaceful family living of the parties and most importantly to ensure the well being of the children born to them. Hence, there is no necessity to continue criminal proceedings so as to retain them in the hazards of litigation and to collapse their married life and the well being of the children. In view of the matter, in deviation from the general principle, this is a fit case, where

quashment is liable to be allowed. Therefore, I am inclined to allow the prayer for quashment”.

9. In the present case also, the petitioner has already solemnized the marriage with Shiwani, respondent No. 3, alleged victim and she has already given birth to a female child Ivanshi, which is apparent from birth certificate (Annexure P-2). Therefore, even though, Suman mother of respondent No. 3 has not agreed for quashing of the FIR, still, continuation of criminal proceedings against the petitioner would jeopardize the married life of the petitioner and respondent No. 3. Even otherwise, the act in question is personal and had finally resulted in the marriage between the petitioner and respondent No. 3. It does not involve any offence against the society, offence of mental depravity nor it involves any offence covered under the SC/ST Act. In such a situation, exercise of power to quash the proceedings would be in consonance with the provisions of law and to meet the ends of justice and to prevent the unnecessary continuation of the proceedings, which may ultimately result in unnecessary vagaries and may prove to be detrimental to married life. Even otherwise, learned counsel for the petitioner and respondent No. 3 have jointly informed the Court that the petitioner and respondent No. 3 are happily settled in their matrimonial home since last more than 02 years. Thus, in the considered opinion of this

Court, it would be in the fitness of things to quash the proceedings against the petitioner.

10. In view of the above discussion, the petition is allowed and the FIR No. 284 dated 31.10.2019 under Sections 363, 366-A and 506 IPC and Section 3 of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Sadar Narnaul, District Mohindergarh and all subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

06.09.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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