



Sr. No.319

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-32942-2023 (O&M)

Date of decision: 18th September 2024

ASHISH TANWAR

.....Petitioner

versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Shiv Kumar Rana, Advocate
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

Ms. Gurpreet Kaur, Advocate
for respondent No.2.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.161 dated 06.08.2021, under Sections 313, 323, 406, 498-A, 506, 509 read with Section 34 IPC, 1860, registered at Women Police Station Jhajjar, District Jhajjar (Annexure P-1) and all subsequent proceedings arising therefrom, on the basis of compromise deed dated 29.05.2023 (Annexure P-2), executed between the parties.
2. Mr. Shiv Kumar Rana, Advocate has put in appearance on behalf of the petitioner and filed his '*vakalatnama*' with no objection from the earlier counsel, which is taken on record.
3. This Court, vide order dated 28.07.2023, had directed the parties to appear before the trial Court to get their statements recorded and the learned Magistrate was directed to send its report qua the genuineness of the compromise.



4. Pursuant to the aforesaid order, the parties have appeared before the Judicial Magistrate Ist Class, Jhajjar and got their statements recorded. On the basis of the statements so recorded, the learned Magistrate has submitted report dated 12.10.2023 with the following observations:-

“1. As per the statement of the I.O, the FIR in hand was registered against three accused persons in total namely Aashish Tanwar, Suresh Pal and Smt. Vinod Devi, all residents of village Haluwas, District Bhiwani.

2. As per the statement of the I.O. and perusal of the case dossier, none of the aforesaid accused has been declared as a proclaimed offender.

3. As per the statements of the parties, the compromise arrived at between the parties appears to be genuine, voluntary and with free will of the parties.

4. As per the statement of the I.O., apart from the present one, no other criminal case has been registered against any of the accused.

5. As per the statement of the I.O. and perusal of the case file, Ms. Pooja is the only victim/complainant in the present case.”

5. Ms. Gurpreet Kaur, Advocate has put in appearance on behalf of respondent No.2 and filed ‘vakalatnama’ with no objection from the earlier counsel, which is taken on record.

6. Learned State counsel as well as counsel for respondent No.2 have not disputed the factum of compromise between the parties.

7. However, the learned State counsel, while referring to the statement of the prosecutrix recorded under Section 164 Cr.P.C. on 07.08.2021 (Annexure R-1), copy of ultra sound report/medical report dated 12.05.2021 (Annexure R-2) and copy of the opinion of the doctor dated 08.09.2021 (Annexure R-3), appended along with the status report dated 09.01.2024, submits that during the investigation,

the Investigation Agency had collected the evidence regarding termination of the



pregnancy of the complainant. As per the ultra-sound report dated 12.05.2021 (Annexure R-2), the complainant was six weeks' pregnant.

8. It is not disputed that COVID period was going on at the time when the pregnancy of the complainant was found positive. As per the medical report given by Dr. Manju (Annexure R-3), the petitioner and the complainant had visited her clinic as the complainant-wife was pregnant and she was also suffering from COVID-19. Both the petitioner and the complainant wanted to know as to whether the child will have any bad effects of COVID-19. The doctor explained to them that the situation and variants of COVID-19 are changing from time to time, as such, it would be their personal decision as to whether they want to keep the child or abort the same.

9. Further, as per the report of the doctor (Annexure R-3), both the petitioner and the complainant had again visited the clinic and by that time, the complainant-wife had already consumed medicine for abortion and the fresh ultrasound report dated 22.05.2021 revealed that the pregnancy had been aborted. However, there were some clots left and the doctor had advised them to have a complete abortion.

10. Now, the matter stands settled *inter se* the parties. The offence under Section 313 IPC appears to have been added on account of abortion of the complainant-wife.

11. There is no circumstance to indicate that the apprehensions, which are recorded by the doctor on account of the complainant-wife being COVID positive, were not there and there was any force having been used by the petitioner.

12. Now, the marriage of petitioner-husband and respondent No.2-wife stands finally dissolved. Learned counsel for respondent No.2 admits that the entire



sum of Rs.23,00,000/- has been received by respondent No.2 *qua* maintenance and full and final settlement of all her claims.

13. In view of the above, no useful purpose would be served to continue with the proceedings before the trial Court in the instant FIR.

14. Following the principles laid down by the Full Bench judgment of this Court in “Kulwinder Singh and others Versus State of Punjab and another 2007” (3) RCR (Criminal) 1052 and approved by the Hon'ble Supreme Court in “Gian Singh Versus State of Punjab and others” (2012) 10 SCC 303, the present petition is allowed and FIR No.161 dated 06.08.2021, under Sections 313, 323, 406, 498-A, 506, 509 read with Section 34 IPC, 1860, registered at Women Police Station Jhajjar, District Jhajjar (Annexure P-1) and all subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

15. However, the respondent No.2/complainant and the State shall be at liberty to seek cancellation of this order, in case the final terms and conditions of compromise deed dated 29.05.2023 (Annexure P-2) are violated.

16. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

18th September 2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No