

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

278

CRM-M-37190-2019 (O&M)
Date of decision: 12.03.2024

JOGINDER @ MINTU

...Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. I.S. Saggu, Advocate
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

Ms. A.S. Manaise, Advocate for
Mr. G.S. Manku, Advocate
for respondent No.2.

HARPREET KAUR JEEWAN, J. (ORAL)

[1] The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.075 dated 07.09.2018, under Sections 313, 323, 354-D, 376-D, 384, 450, 506 IPC and Sections 25, 54, 59 of the Arms Act, 1959 (later on converted into Sections 376, 384, 506, 494, 498, 177, 181, 200, 420, 120-B, 468, 471 IPC during investigation) registered at Police Station Women, District Palwal (Annexure P-1), on the basis of affidavit/compromise dated 31.08.2019 (Annexure P-5) qua the petitioner.

[2] Learned counsel for the petitioner *inter alia* contends that the petitioner and respondent No.2-complainant were married to their respective spouses. The petitioner met respondent No.2 in the year 2014 and they developed

friendly relationship but due to some misunderstanding, the present FIR was registered at the instance of respondent No.2. However, during the investigation, the family members of the petitioner namely Tosh Raj @ Chintu, Preeti, Pappu @ Nand Ram and Narender Singh, who are named as co-accused in the FIR, were found to be innocent. The petitioner and respondent No.2-wife filed a joint divorce petition under Section 13-B(1) of the Hindu Marriage Act, 1955. However, the said petition was dismissed as respondent No.2 could not appear in the Court for recording her statement on second motion. Thereafter, Anil Kumar, husband of respondent No.2 filed a petition under Section 13-B(1) of the Hindu Marriage Act, 1955 which was dismissed on 09.08.2018 due to non-appearance of respondent No.2. It is further contended that the petitioner and respondent No.2 have amicably resolved the matter and respondent No.2 does not want to take any action in this FIR.

[3] Learned counsel appearing on behalf of respondent No.2 has confirmed the factum of compromise between the parties.

[4] On 04.09.2019, the parties were directed to appear before the Illaqa Magistrate/trial Court for recording of their statements regarding the compromise.

[5] As per the report dated 29.10.2019, received from the Judicial Magistrate, Ist Class, Palwal through the District & Sessions Judge, Palwal compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. It is further mentioned in the report that initially, the complaint was made by Seema but later on, she was also made an accused along with the petitioner Joginder @ Mintu and now, there is no complainant. Only State is the affected party. It is further opined by the Judicial Magistrate First Class, Palwal, that the compromise entered into between the parties appears to be

authentic and entered into with free will and consent of the parties.

[6] Learned State counsel has not raised any objection regarding the acceptance of the present petition.

[7] Both the petitioner and respondent No.2 are major. Initially, the FIR was lodged at the instance of respondent No.2 with the allegations that the petitioner came in contact with her in a bus. Thereafter, the petitioner came to the house of respondent No.2-complainant and forcibly committed rape with her and threatened to kill her. There are allegations against other family members of the petitioner as well, which are stated to have been found false. The learned State counsel has not raised any objection to the report dated 14.06.2019, submitted by the State Crime Branch during investigation. Respondent No.2, at whose instance the FIR was lodged, is major and she does not want to take any action against the petitioner. Nobody has any grievance against the petitioner, as such, further continuing with the prosecution and the FIR will not be in the interest of justice.

[8] Keeping in view the facts and circumstances of the case and the fact that the compromise between the parties is genuine and voluntarily made and in view of the ratio of the decision of Hon'ble Apex Court in *Gian Singh Versus State of Punjab (SC) 2012 (4) RCR (Criminal) 543* and the decision of Hon'ble the Full Bench of this Court in *Kulwinder Singh and others vs. State of Punjab and others 2007 (3) RCR (Criminal) 1052*, the ends of justice would meet if the FIR and consequential proceedings are quashed by accepting the compromise between the parties.

[9] Consequently, this petition is allowed and FIR No.075 dated 07.09.2018, under Sections 313, 323, 354-D, 376-D, 384, 450, 506 IPC and Sections 25, 54, 59 of the Arms Act, 1959 (later on converted into Sections 376,

384, 506, 494, 498, 177, 181, 200, 420, 120-B, 468, 471 IPC during investigation) registered at Police Station Women, District Palwal and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

[10] However, the respondent No.2 and the State shall be at liberty to seek cancellation of this order, in case the final terms and conditions of affidavit (Annexure P-5) are violated.

[11] Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

12.03.2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No