



CRM-M-48691-2023 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48691-2023 (O&M)

Reserved on: 19.07.2024

Date of Pronouncement:- 18.11.2024

SACHIN @ LALA

.....PETITIONER

Vs.

U.T. CHANDIGARH AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

(As on the reserved date)

Present: Mr. H.S. Jaswal, Advocate,
for the petitioner.Mr. Rajiv Vij, Addl. P.P. U.T. Chandigarh
assisted by SI Mahe Singh.Mr. Varinder Singh, Advocate,
for respondent No. 2.

HARPREET KAUR JEEWAN, J.

1. Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR No.104 dated 16.11.2021 (Annexure P-1) registered under Section 376(2)(n) IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act') (later on deleted by the police) at Police Station Sarangpur, U.T. Chandigarh and all the consequential proceedings arising therefrom on the basis of compromise dated 10.03.2023 (Annexure P-3) effected between the parties.
2. The parties were directed to appear before the trial Court for recording of the statements with regard to the compromise dated



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10.03.2023 (Annexure P-3), as per the order dated 03.10.2023. The relevant part of the said order reads as under:-

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“Learned counsel for the petitioners submits that in order to live peacefully, parties have entered into compromise dated 10.03.2023 (Annexure P-3), according to which, both the parties have agreed not to proceed further with the FIR in question. It is submitted that the petitioner has solemnized marriage with the victim/respondent No. 2 herein on 22.05.2023. It is further submitted that even prior to the marriage a male child was born out of the relationship between the petitioner and the victim on 16.11.2021. Learned counsel submits that although on the date of alleged incident the age of the victim was shown as 17 years. However, during investigation it was revealed that she was 18 years of age even at the time of incident. It is submitted that charges under Section 6 of the POCSO Act have been deleted and the challan has been presented against the petitioner only under Section 376(2)(n) IPC.

Notice of motion.

On the asking of Court, Mr. Rajiv Vij, Addl. P.P. for U.T. Chandigarh, accepts notice on behalf of respondent No. 1-U.T. Chanidgarh; whereas Mr. Varinder Singh, Advocate who is present in Court accepts notice on behalf of respondent No. 2-complainant and submits his Vakalatnama, which is taken on record.

Learned Addl. P.P. for U.T. Chandigarh, submits that the FIR in question cannot be quashed on the basis of compromise dated 10.03.2023 (Annexure



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P-3) effected between the parties as there are charges under the POCSO Act against the petitioner. However, learned Addl. P.P. for U.T. Chandigarh, is unable to confirm as to whether in the present case, the charges under the POCSO Act have been deleted or not. He further submits that the next date before the trial Court is 16.11.2023 and 08 prosecution witnesses have been examined before the trial Court, so far.

Learned counsel for respondent No. 2-victim submits that in the challan report filed by the police before the learned trial Court, the date of birth of the victim as per matriculation certificate is shown as 15.01.2003, therefore, at the time of alleged incident the victim was more than 18 years of age.

*The Kerala High Court in **Crl. M.C. No. 5765 of 2020(A)**, decided on 20.04.2021, 2021(3) Crimes 219, Law Finder Doc Id#1835173, has held that when the accused and the victim have entered into a matrimonial relationship, there is no purpose in continuing with the proceedings. Even if the trial Court is allowed to proceed with the trial of the case, it is sure that material witnesses are not going to support the case. That means, it would be a futile exercise to continue the proceedings.*

In view of the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording their statements with regard to the compromise dated 10.03.2023 (Annexure P-3) on 16.11.2023, the date already fixed before the trial Court by moving an appropriate application or by presenting this order.”

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3. As per the order dated 25.01.2024, the State of U.T., Chandigarh was directed to submit verification regarding the contentions noted in the aforesaid order, i.e. the petitioner has solemnized marriage with the victim on 22.05.2023 and that during the investigation it was revealed that she was 18 years of age even at the time of the incident.

4. Mr. Rajiv Vij, Addl. P.P. U.T., Chandigarh submitted that the investigating officer, SI Mahe Singh, Police Station, Sarangpur, U.T., Chandigarh, has verified the aforesaid facts and recorded the statement of the prosecutrix on 17.09.2023. The prosecutrix confirmed the aforesaid contentions, in her statement. Copy of which was submitted in Court on 17.09.2024.

5. As per the report dated 22.11.2023, received from the Judge, Fast Track Special Court, Chandigarh, the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. The petitioner has not been declared as "Proclaimed Offender" and he is not involved in any other criminal case.

6. In the statement of the prosecutrix recorded by SI Mahe Singh on 17.09.2024, the prosecutrix stated that she was having a love affair with the petitioner. Her date of birth is 15.01.2003 as per the record of the GMSS School, Dhanas and Aadhar card. She has further verified that she gave birth to a child in GMSH, Sector 16, Chandigarh on 16.11.2021. Subsequently, she has solemnized marriage with the petitioner on 22.05.2023 and presently she is happily living with the petitioner.

7. Keeping in view the facts and circumstances of this case and in view of the fact that even a child has been born out of the relationship



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inter se the petitioner and the prosecutrix, subsequently, they have represented their relationship by entering into a wedlock, in case further proceedings are conducted on the basis of the present FIR, this can cause a lot of inconvenience and issues to the minor child as well. Even the future of the child would be in difficulty in case the petitioner is further prosecuted on the basis of the present FIR.

8. Keeping in view the interest of the parties, as well as in the interest of the minor child, it is in the fitness of the things that the present compromise should be accepted.

9. Consequently, this petition is allowed and FIR No.104 dated 16.11.2021 (Annexure P-1) registered under Section 376(2)(n) IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act') (later on deleted by the police) at Police Station Sarangpur, U.T. Chandigarh and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

10. Pending miscellaneous applications, if any, also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

November 18, 2024
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Whether Speaking	Yes/No
Whether Reportable	Yes/No