



CRM-M-59738-2023 (O&M)

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

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CRM-M-59738-2023 (O&M)
Date of decision: 25.07.2024

GURJANT SINGH AND OTHERS

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Sukhbir Maandi, Advocate
for the petitioners.

Mr. Rubal Pawar, AAG, Punjab.

Mr. J.S. Mahal, Advocate
for respondents No.2 and 3.

HARPREET KAUR JEEWAN, J.

[1] The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.43 dated 05.05.2022, under Sections 363, 366-A, 34 IPC registered at Police Station Khilchian, District Amritsar Rural (Annexure P-1), on the basis of compromise deed dated 10.11.2023 (Annexure P-2) executed between the parties.

[2] Learned counsel for the petitioners contends that the petitioner No.1 and respondent No.3-daughter of the complainant have solemnized marriage against the wishes of the complainant and other family members. He further contends that now respondent No.3 is residing with the petitioner No.1 in her



matrimonial home and living a happy married life. He submits that the matter has been settled between the parties and compromise deed dated 10.11.2023 (Annexure P-2) has been executed between them. The matter stands settled between the parties, as such respondents No.2 and 3 do not want to take any action in the present FIR.

[3] Learned counsel for respondents No.2 and 3 has confirmed the factum of compromise between the parties.

[4] Learned State counsel has submitted that the prosecutrix was minor at the time of the alleged occurrence. However, learned State counsel has informed that as per the FIR, the date of birth of the prosecutrix is 02.03.2005 and she was stated to be 17 years and 2 months of age at the time of the registration of the FIR on 05.05.2022.

[5] On 15.05.2024, the parties were directed to appear before the trial Court/Illaq Magistrate for recording of their statements regarding the compromise.

[6] As per the report dated 11.07.2024 received from Judicial Magistrate 1st Class, Baba Bakala Sahib forwarded through the office of District and Sessions Judge, Amritsar, compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. The petitioners have not been declared as proclaimed offenders.

[7] Petitioner No.1-Gurjant Singh is 25 years old. The FIR was registered on 05.05.2022 and the age of the prosecutrix was recorded as 17 years 2 months in the FIR. Even the State counsel has confirmed the date of birth of the prosecutrix as 02.03.2005, as such the age of the victim was 17 years and 2 months at the time



of the registration of the FIR. The compromise (Annexure P-2) is stated to have been executed on 10.11.2023, as such the age of the prosecutrix was 18 years and 8 months at the time of the execution of the said agreement. As per the compromise (Annexure P-2), the prosecutrix has solemnized her marriage with the petitioner No.1-Gurjant Singh and now she is living a happy married life in her matrimonial home. Though the prosecutrix was minor at the time of the alleged occurrence, however keeping in view the age of the petitioner No.1-Gurjant Singh; age of the prosecutrix; and the subsequent developments that both have solemnized marriage with each other and they are happily living together, further prosecution on the basis of the present FIR would be neither in the interest of the prosecutrix nor in the interest of the complainant.

[8] While taking a humanitarian approach in such a matter, the Hon'ble High Court of Kerala at Ernakulam in case, titled XXXXX vs. State of Kerala (CRL.MC No. 2031 of 2024), decided on 22.07.2024 permitted the quashing of FIR of the subsequent proceedings where the FIR was registered under POCSO Act, observations are as under:-

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“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] Similarly, the Hon’ble High Court of Himachal Pradesh at Shimla, in the case titled Aryan vs. State of Himachal Pradesh and another (Cr.MMO No. 171 of 2024), decided on 03.04.2024, the petitioner filed a petition under Section 482 Cr.P.C. seeking quashing of an FIR registered under Section 4 of the POCSO Act, said to be compromised where petitioner and respondent No. 2 have solemnized marriage and were having an offspring as well. The observations of the High Court are as under:-

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“12. In view of the peculiar facts of the instant case, the petitioner and respondent No.2-Victim [‘X’] had bitterness leading towards the accusation in FIR; but now since the petitioner and respondent No.2 have solemnized their marriage and have an offspring now; and both have cordial relation and have no grudges against either of them as of now. This Court ensured the presence of the Respondent No.2-Victim [‘X’] who corroborated the factum of marriage, an offspring from their wedlock with the petitioner. Even the complainant, on being present this Court has corroborated the factum of their marriage as well as the child born therefrom and the cordial relations inter se. In this backdrop, this Court is satisfied that the FIR and the criminal proceedings therefrom need to be quashed and set-aside, so as to meet the ends of justice. Giving a quietus to entire criminal proceedings/action shall promote harmony, orderly behavior and conduct amongst themselves. Any reverse action in continuing with the FIR and criminal proceedings shall lead to reviving bitterness, restoring inimical relations not only amongst themselves but may adversely affect their respective families and relations also. The societal effect of continuing with the



proceedings shall lead to tarnishing the reputation, spoiling her life, irreparable harassment and hardships not only to the Respondent No.2-Victim ['X'], but also his offspring, which can never be the intent of law. Lastly, the continuance of proceedings [in FIR and criminal proceedings therefrom] shall not entail any fruitful result when, the complainant and the Respondent No.2-Victim ['X'] alleged victim have decided not to continue with these proceedings. Even the pendency will lead to cloaking the docket of the State Authorities and the Court(s), knowing that it will end in futile exercise.”

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[10] In view of the facts and circumstances of the matter that the petitioner No.1 and respondent No. 3 have solemnized marriage and in view of the ratio of the decisions in XXXX vs. State of Kerala (supra) and in Aryan (supra), it is a fit case to exercise jurisdiction under Section 482 Cr.P.C to quash the proceedings on the basis of the FIR, which is registered at the instance of respondent No. 2.

[11] Keeping in view 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.

[12] Consequently, this petition is allowed and FIR No.43 dated 05.05.2022, under Sections 363, 366-A, 34 IPC registered at Police Station Khilchian, District Amritsar Rural (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.



[13] However, the respondents No.2 and 3 and the State shall be at liberty to seek cancellation of this order, in case the final terms and conditions of compromise (Annexure P-2) are violated.

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

(HARPREET KAUR JEEWAN)
JUDGE

25.07.2024
P.Bhatt

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