



252

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

CRM-M-59699-2024

Date of Decision: 17.12.2024

Balwinder Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Saurav Bhatia, Advocate and
Mr. Manjot Khokhar, Advocate for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

Mr. Kuljinder Singh Billing, Advocate
for respondent No.2-complainant.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of FIR No.74 dated 17.05.2024 under Sections 376 & 506 of the Indian Penal Code, 1860 (for short 'IPC') (Section 376(2)(n) of IPC was added later on), registered at Police Station Anaj Mandi, District Patiala (Annexure P-1) along with all subsequent proceedings arising therefrom on the basis of affidavit of complainant-respondent No.2 dated 18.11.2024 (Annexure P-2).

2. The following order was passed on 28.11.2024:-

"This petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of FIR No.74 dated 17.05.2024 under Sections 376 & 506 of the Indian Penal Code, 1860 (for short 'IPC') (Section 376(2)(n) of IPC was added later on), registered at Police Station Anaj Mandi, District Patiala (Annexure P-1) along with all subsequent proceedings arising therefrom on the basis of affidavit of complainant-respondent No.2 dated 18.11.2024 (Annexure P-2).

Learned counsel for the petitioner, inter alia, contends that the

petitioner and respondent No.2 were in a consensual relationship and both of them intended to marry each other. It is further contended that respondent No.2 has furnished an affidavit (Annexure P-2) that she has no objection, if the FIR (supra) is quashed. It has been mutually agreed between the parties that they will perform marriage to each other, once the petitioner is released from judicial custody. Learned counsel for the petitioner relies upon a judgment of the Hon'ble Supreme Court in Kapil Gupta Vs. State of N.C.T. of Delhi and another, 2022 (4) RCR (Crl.) 497, to contend that FIR under Section 376 of IPC (now Section 64 of Bharatiya Nyaya Sanhita, 2023) can be quashed on the basis of compromise. Learned counsel has further relied upon a judgment of this Court in Karan Sharma Vs. State of Haryana and another, 2021(1) Law Herald 149 and contends that once the parties have compromised the matter and decided to live in peace, no useful purpose will be served in allowing the criminal proceedings to continue.

Learned counsel for the petitioner submits that since the petitioner is confined in Central Jail, Patiala, his statement may be ordered to be recorded through video conferencing or by producing him before learned trial Court/Illaq Magistrate on production warrants.

Notice of motion.

At this stage, on asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab accepts notice on behalf of respondent No.1-State and Mr. Kuljinder Singh Billing, Advocate accepts notice for respondent No.2 and files his Vakalatnama, which is taken on record. Copy of the paper book be supplied to them during course of the day.

Service is complete.

Adjourned to 17.12.2024.

In the meanwhile, the parties are directed to appear before learned trial Court/Illaq Magistrate within a period of two weeks from today or any other date convenient to learned trial Court/Illaq Magistrate, to get their statements recorded regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate is directed to send report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party on or before the date fixed.

Since the petitioner is in judicial custody, learned trial Court/Illaq Magistrate is directed to record his statement, in terms of the compromise (Annexure P-2), through video conferencing or by seeking his presence through production warrants.

A copy of this order be sent to learned trial Court/Illaq Magistrate through fax for compliance.”

3. In compliance of the aforesaid order, a report has been received from the concerned jurisdictional Court that the compromise between the parties is genuine and arrived at without any pressure or coercion from anyone.

4. In view of the compromise and the ratio of law laid down by

the Hon’ble Supreme Court in *Narinder Singh and others vs. State of Punjab and another*, (2014) 6 SCC 466, *Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC OnLine SC 834* and *Shakuntala Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63* and Full Bench of this Court in *Kulwinder Singh Vs. State of Punjab 2007 (3) RCR (Crl.) 1052*, **this petition is allowed and** FIR No.74 dated 17.05.2024 under Sections 376 & 506 of the Indian Penal Code, 1860 (for short ‘IPC’) (Section 376(2)(n) of IPC was added later on), registered at Police Station Anaj Mandi, District Patiala (Annexure P-1) and all consequential proceedings arising out of the same are quashed, qua the petitioner.

17.12.2024
Parveen kumar

(HARPREET SINGH BRAR)
JUDGE

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