



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

Sr. No.262

CRM-M-40843-2024(O&M)

Date of decision : 06.02.2025

DINESH KUMAR

..... Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Arjun Singh, Advocate, for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Harjit Yadav, Advocate for
Mr. Shashi Kumar Yadav, Advocate
for respondent No.2.

KIRTI SINGH, J. (Oral)

1. The present petition has been filed under Section 528 of BNSS, 2023 for quashing of FIR No.302 dated 27.06.2024, under Sections 376(2) (n) and 506 IPC registered at Police Station Model Town, Rewari and all other consequential proceedings arising therefrom on the basis of the compromise.

2. 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.



3. Reply dated 04.02.2025 has been filed by learned State counsel, in Court today, which is taken on record.
4. Heard learned counsel for the parties and also gone through the case file.
5. This Court while directing the parties to appear before the Area Magistrate/trial Court for recording their statements with regard to the compromise, passed the following order on 11.09.2024:-

“Prayer in the instant 1st petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for quashing of FIR No. 302 dated 27.06.2024 (Annexure P-1) registered under Sections 376(2)(n) and 506 IPC at Police Station Model Town, Rewari and all the consequential proceedings arising therefrom in view of the statement dated 08.07.2024 and affidavits dated 02.07.2024 and 13.08.2024 (Annexures P-2 to P-4, respectively) of respondent No. 2-complainant.

Learned counsel for the petitioner, inter alia, submits that the petitioner is running a transport business and respondent No. 2-complainant was employed as his Clerk. Both the petitioner and respondent No. 2-complainant are married to their respective spouses, however, a consensual relationship has been developed between them. When the wife of the petitioner discovered about their alliance, she asked the petitioner to remove respondent No. 2 from job. Thereafter, the present FIR came to be registered against the petitioner. Learned counsel submits that the allegations made in the FIR are false and fabricated as admittedly, the petitioner and the complainant were in a consensual relationship. In this regard, learned counsel for the petitioner refers to affidavit dated 02.07.2024 (Annexure P-3) duly sworn-in by respondent No. 2-complainant, wherein in para No. 4 thereof, she has stated that ‘she came under someone’s pressure and lodged a complaint against Dinesh in Model Town Police Station Rewari’. Reference has also been made to statement of the complainant dated 08.07.2024 (Annexure P-2) (at page 15 of the paper-book), wherein she has stated that ‘the petitioner helped her by giving a job in bad times, but not he has stopped talking to her, so she had filed the present complaint to put pressure on him. Learned counsel for the petitioner also refers to the another affidavit of the complainant dated 13.08.2024 (Annexure P-4), wherein in para No. 3 thereof, she has stated that ‘we both developed emotional and physical relationship without any pressure and with consent. Thereafter, on 22.10.2023 Dinesh in the influence and coercion of wife removed me from the job’. Further, it is submitted that the present petitioner is the only accused in the present case and he has never been declared as proclaimed offender.

Learned counsel for the petitioner submits that vide order dated 28.08.2024, passed by this Court in CRM-M-41644-2024, titled as ‘Dinesh Kumar vs. State of Haryana and another’, the petitioner has already been granted the concession of anticipatory bail in the aforesaid FIR (Annexure P-1). Thus, it is prayed that the impugned FIR (Annexure P-1) may be quashed qua the petitioner.

In support of his prayer, learned counsel for the petitioner has referred to the judgments of this Court in Sachin Kausal vs. State of Punjab and another, Law Finder Doc Id # 2514497 and in Sukwinder Singh vs. State of Punjab and another, decided by this Court on 07.05.2024.

Notice of motion.



On the asking of Court, Mr. Surinder Kumar Dagar, DAG, Haryana, accepts notice on behalf of respondent No.1-State; whereas Mr. SK Yadav, who is present in Court accepts notice on behalf of respondent No. 2 and submits Vakalatnama, which is taken on record.

Per Contra, learned counsel for the State objects to the prayer for quashing of the impugned FIR (Annexure P-1) and submits that grave, serious and specific allegations have been made against the petitioner by respondent No. 2-complainant. It is submitted that respondent No. 2-complainant has solemnized marriage with other person only after registration of the FIR.

Learned counsel for respondent No. 2 has not disputed the aforesaid submissions made by learned counsel for the petitioner and the factum of compromise effected between the parties.

In normal circumstances, the Court would not entertain a matter when the non-compoundable offences are heinous in nature and against the public. In the instant case, the offence, complained of, is under Section 376(2)(n) IPC, which is an offence of grave nature. In the eyes of law, the offence of rape is serious and non-compoundable and the Courts should not in the ordinary circumstances interfere and quash the FIR that has been registered. However, there are always exceptions to the normal rules and certain categories of cases, which deserve consideration specially when it is case of love affair between teenagers and on fear of the society and pressure from the community one party alleges rape, cases where the accused and the victim are well known to each other and allegation of rape is levelled only because the accused refused to marry, as well as the age, educational maturity and the mental capacity, sequences of the same ought to be kept in mind when inclined to interfere. In the instant case, a complaint came to be made in which it was stated that petitioner and respondent No. 2 were in a consensual relationship with each other. Moreover, with the intervention of respectables, a compromise has also been entered into between them whereby it is decided by the complainant that the FIR would not be pursued.

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 statement of the complainant dated 08.07.2024 and affidavits duly sworn-in by the complainant dated 02.07.2024 and 13.08.2024 (Annexures P-2 to P-4, respectively) on 26.09.2024 or any other date convenient to the learned trial Court by moving an appropriate application or by presenting this order.

The trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing i.e. 06.02.2025 containing the following information:-

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence;*
- 4. Whether the accused persons are involved in any other FIR or not; and*
- 5. The trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainant as well as accused are party to the compromise in question.*

A copy of the report be sent through FAX, to the Registrar (Judicial) of this Court.”



6. Pursuant to the aforesaid order, report dated 27.09.2024 has been received from the Judicial Magistrate First Class, Rewari. A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between them and they have no objection in case the FIR in question is quashed. The compromise effected between them is genuine, without any undue influence and coercion.

7. The Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052***, held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the view that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

8. Hon'ble the Supreme Court in the case of ***Gian Singh vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543***, had observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment reads thus:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code.

Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.



xxx xxx xxx. ”

9. In view of the compromise, 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 (Cr1.) 1052** and perusing the report of the trial Court regarding amicable settlement between the petitioners and the complainant, this Court finds that quashing the FIR will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

10. Resultantly, the present petition is allowed and FIR No.302 dated 27.06.2024, under Sections 376(2)(n) and 506 IPC registered at Police Station Model Town, Rewari and all other consequential proceedings are quashed qua the petitioner on the basis of the compromise, **subject to payment of Rs.20,000/- to be deposited in the Poor Patient Welfare Fund, PGIMER, Chandigarh within a period of one month.**

11. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

06.02.2025
Kavita
Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No