



243

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

CRM-M-63378-2024 (O&M)

Date of decision: 25.09.2025

Davinder Singh

...Petitioner

Versus

State of U.T. Chandigarh and Another

...Respondents

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Rajat Dogra, Advocate
for petitioner.

Mr. Rajiv Vij, APP, U.T. Chandigarh.

Mr. Gurmandeep Singh Dhillon, Advocate for
Mr. Sarthak Jindal, Advocate
for respondent No.2.

SHALINI SINGH NAGPAL J.

1. Petitioner seeks quashing of FIR No. 180 dated 19.11.2024 under Sections 376 and 420 of Indian Penal Code, Police Station South Sector-34, District Chandigarh and all subsequent proceedings arising therefrom, on the basis of compromise dated 01.12.2024/03.12.2024.
2. On 17.12.2024, this Court directed the parties to appear before learned trial Court/Illaq Magistrate for recording of their statements regarding compromise dated 01.12.2024/03.12.2024.
3. In compliance of the aforesaid order, parties appeared before learned JMIC, Chandigarh on 20.12.2024. Statement of Investigating Officer LSI Pratibha Kumari, was recorded on 13.01.2025. Learned JMIC, Chandigarh has submitted his report recording satisfaction that all the parties



have entered into a valid compromise without any influence or coercion.

Point-wise report as under has been submitted:

“From the statements of the said parties, it clearly appears that the compromise inter-se the parties namely xxxxx, d/o, Hukam Chand and Davinder Sinder, s/o, Sulakhan Singh, is genuine, voluntary and the same has been effected between the parties without any pressure, coercion or undue influence.

From the information so made available before this Court, vide the means of the statement of the Investigating Officer/L-SI Pratibha Kumari, it is hereby submitted that no PO proceedings were pending against any of the parties.”

4. Learned State counsel as well as learned counsel for respondent No.2 have not raised any dispute regarding the factum of compromise.

5. A few facts need to be noticed.

6. Prosecutrix (name withheld) lodged a complaint stating that she was in private job. In October 2021, she became friendly with Davinder Singh son of Sulakhan Singh, resident of Village Chutehra, Tehsil Samana, District Patiala and they started meeting each other. Davinder expressed that he liked her. They went out for outings and started talking to each other on phone. Davinder told her that he was interested in a relationship and wanted to marry her which she believed. In October 2021 at about 04:30 PM, Davinder took her in a car towards Sector 45 slip road, parked his car and started molesting her. Thereafter, he made physical relations with her promising to look after her through out life. At about 09:30 PM, he dropped her at her PG. He came from Patiala to Chandigarh in his car and took her to



a hotel where he made physical relations with her in October, November. He took her to the same hotel many times and made physical relations on the pretext of marriage. He also took her to a hotel in Patiala in 2022 where he made physical relations. Throughout 2023, he made physical relation with her in Zirakpur and the last time, he took her to a hotel in September 2024 where they had physical relations. When she asked him for marriage, he assured that he would speak with his sister and started making excuses. He was interested in marrying someone else and had refused to marry her. Davinder Singh had been sexually assaulting her on the pretext of marriage.

7. In **State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335**, Hon'ble Supreme Court has formulated the parameters in terms of which the powers under section 482 of CrPC, 1973 could be exercised. The Court held that quashing may be appropriate:

“(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do



not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.



8. Thus, while considering a quashing petition on the basis of compromise, this Court is not precluded from determining whether, from the allegations in the FIR, offence punishable under Section 376 IPC is made out.

9. The offence of 'rape' is defined under Section 375 of IPC and sets out certain descriptions. Relevant for the purpose of this case, is the second description i.e. a male subjecting a woman to sexual intercourse without her consent. As per Explanation-2 of Section 375, 'consent' means an unequivocal voluntary agreement when the women by words, gestures or any form of verbal or non verbal communication, communicates willingness to participate in the specific sexual act. Section 90 of IPC, too is relevant which says that a 'consent' given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception, is not consent.

10. In **Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 SCC 608** arising out of identical facts, Hon'ble Supreme Court has enumerated the following:

"18. To summarise the legal position that emerges from the above cases, the "consent" of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the "consent" was vitiated by a "misconception of fact" arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false



promise itself must be of immediate relevance, or bear a direct nexus to the woman's decision to engage in the sexual act."

11. In **Prashant Vs. State of NCT of Delhi, 2025(5) SCC 764**, Hon'ble Supreme Court held as under:

"In our view, taking the allegations in the FIR and the chargesheet as they stand, the crucial ingredients of the offence under Section 376 (2)(n) IPC are absent. A review of the FIR and the complainant's statement under section 164 CrPC, 1973 discloses no indication that any promise of marriage was extended at the outset of their relationship in 2017. Therefore, even if the prosecution's case is accepted at its face value, it cannot be concluded that the complainant engaged in a sexual relationship with the appellant solely on account of any assurance of marriage from the appellant. The relationship between the parties was cordial and also consensual in nature. A mere breakup of a relationship between a consenting couple cannot result in initiation of criminal proceedings. What was a consensual relationship between the parties at the initial stages cannot be given a colour of criminality when the said relationship does not fructify into a marital relationship. Further, both parties are now married to someone else and have moved on in their respective lives. Thus, in our view, the continuation of the prosecution in the present case would amount to a gross abuse of the process of law. Therefore, no purpose would be served by continuing the prosecution."



12. Hon'ble Supreme Court in **XXXX v. State of Madhya Pradesh, (2024) 3 SCC 496** held that when the relationship between the parties was purely consensual and when the complainant was aware of the consequences of her actions, the ingredients of the offence of rape were not made out. Similar were the observations of Hon'ble Supreme Court in **Mahesh Damu Khare Vs. The State of Maharashtra & Anr, 2024 SCC Online SC 3471**.

13. As per version in the FIR, respondent No.2 was in relationship with the petitioner since 2021 and the relationship continued till September 2024. Complainant was major, mature working lady at the time of incident. The relationship continued for more than three years and was purely consensual. In a case like the present one, when physical relationship is maintained for prolonged period, between two mature adults, it cannot be said with certainty that the relationship was purely because of alleged promise made by the petitioner to marry. Had the physical relations from 2021 to 2024 been made only on the promise of marriage, there was no reason why the relations would have continued for more than three years. Thus, even if the allegations in the FIR are accepted on their face value, ingredients of the offence under Section 376 are missing. It cannot be held that complainant/respondent No.2 engaged in sexual activity with petitioner only on account of assurance of marriage from him. The consensual relationship cannot be given colour of criminal offence.

14. In '**Madhukar and others vs. The State of Maharashtra and another**', **2025 LiveLaw (SC)710**, Hon'ble Supreme Court of India recognizing that offence under 376 of the Indian Penal Code is of a grave and heinous nature, observed that the power of Court under Section 482



Cr.P.C. to secure the ends of justice is not constrained by a rigid formula and must be exercised with reference to the facts of each case. Hon'ble Supreme Court observed that the parties had amicably resolved their differences and arrived at mutual understanding and continuation of trial would not serve any meaningful purpose, rather would only prolong distress for all concerned specially the complainant and burden the Court without the likelihood of productive outcome.

15. The parties have resolved their dispute amicably and should be saved from the agony of criminal trial, which would be an exercise in futility, given the nature of allegations against the petitioner. Continuation of criminal proceedings will only add to the sufferings of the parties.

16. Petition stands allowed.

17. Accordingly, FIR No. 180 dated 19.11.2024 under Sections 376 and 420 of Indian Penal Code, Police Station South Sector-34, District Chandigarh and all subsequent proceedings arising therefrom, are quashed qua the petitioner, on the basis of compromise dated 01.12.2024/03.12.2024.

18. Pending miscellaneous application(s), if any, stand disposed of.

25.09.2025
Sumit Singla

(SHALINI SINGH NAGPAL)
JUDGE

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