



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

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CRM-M-51630-2024

Date of decision : 24.03.2025

Sachin Kumar

....Petitioner

V/S

State of Punjab and another

....Respondents

**CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: Mr. Amit Kumar, Advocate for the petitioner.

Mr. Yuvraj Singh Tiwana, A.A.G., Punjab.

Mr. Namit Kumar, Advocate for respondent No.2.

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**NAMIT KUMAR, J. (ORAL)**

1. The present petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of FIR No.13 dated 25.02.2024 registered under Sections 376(2)(n) of Indian Penal Code, 1860 at Police Station Nayagaon, Mohali (Annexure P-1) and all other subsequent proceedings arising therefrom on the basis of compromise dated 08.10.2024 (Annexure P-2) effected between the parties.

2. While issuing notice of motion, vide order dated 02.12.2024, learned counsel for the petitioner had made the following contentions :-

*“Learned counsel for the petitioner, inter alia, submits that in actual fact the prosecutrix/complainant/respondent No.2 herein and the petitioner were in a consensual relationship since July, 2023. It is*



*submitted that both, the petitioner as well as the complainant are adults being 24 years of age. It is also submitted that as per the FIR (Annexure P-1) itself, the first incident is of July, 2023, however, the FIR was registered only on 25.02.2024. It is stated that accordingly, no offence is made out under Section 376(2)(n) IPC. Now better sense has prevailed between the parties and in order to live peacefully, parties have entered into compromise dated 08.10.2024 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question. Further, it is submitted that petitioner is the only accused in the present case and he has never been declared as proclaimed offender.*

*In support of his contentions, learned counsel for the petitioner relies upon a recent judgment of the Hon'ble Apex Court in **Prashant vs. State of NCT of Delhi**, arising out of Special Leave Petition (Criminal) No. 2793 of 2024, decided on 20.11.2024, as per which consensual physical relationship between two adults does not constitute an offence under Section 376 IPC, on the pretext of marriage.”*

3. Learned counsel for the parties have stated that the present FIR may be quashed as the parties have amicably settled the dispute.

4. During the course of preliminary hearing, the trial Court was directed to record the statements of all the concerned parties, with regard to the genuineness and validity of the compromise by this Court.

5. In compliance thereof, report dated 11.12.2024 from learned Additional Sessions, Judge, Fast Track Court, SAS Nagar has been received through learned District and Sessions Judge, SAS Nagar, with statements of the parties, in which, it has been mentioned that the



compromise is genuine and there was no undue influence or coercion from any side.

6. The Hon'ble Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052*** and Hon'ble Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102*** observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

7. An identical question came to be decided by Hon'ble Supreme Court in case ***Gian Singh Versus State of Punjab and another, 2012(4) RCR (Criminal) 543***. Having interpreted the relevant provisions, it was ruled as under:-

*“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. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have*



*serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”*

8. The same view has been reiterated by the Apex Court in case ***Narinder Singh and others Vs. State of Punjab and another***, 2014(2) RCR (Criminal) 482.

9. While considering the similar issue, the Hon’ble Supreme Court in ***Prashant Vs. State of NCT of Delhi : 2025 AIR Supreme Court 33*** has observed as under :-

*“19. 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 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.*

20. *The ingredients of criminal intimidation are threat to another person, inter alia, with any injury to his person, reputation with intent to cause alarm to that person or to cause that person to any act which he is not legally bound to do. In the instant case, as already noted, the relationship between the appellant and the complainant was consensual in nature. In fact, they wanted to fructify the relationship into marriage. It is in that context that they indulged in sexual activity. Therefore, there cannot be a case of criminal intimidation involved as against the complainant. We do not find that there was any threat caused to the complainant by the appellant when all along there was cordiality between them and it was only when the appellant got married in the year 2019 that the complainant filed a complaint. In the circumstances, we do not think that the offence under Section 503 read with Section 506 of the IPC has been made out in the instant case.*

21. *As demonstrated in the above analysis, the facts as they stand, which are not in dispute, indicate that the ingredients of the offence under Sections 376 (2)(n) or 506 IPC are not established in the instant case. The High Court erred in concluding that there was no consent on the part of the complainant and therefore she was a victim of sexual*



*assault over a period of time and therefore, proceeded to dismiss the application under Section 482 CrPC on a completely misconceived basis. The facts of the present case are appropriate for the High Court to have exercised the power available under Section 482 CrPC to prevent abuse of the court's process by continuing the prosecution.*

22. *Recently this Court in **XXXX vs. 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. Similarly, in **Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 SCC 608** arising out of identical facts, this 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."*

23. *We, accordingly allow the appeal and set-aside the impugned judgment and order of the High Court dated 16.10.2023 in application under Section 482 CrPC. The application under Section 482 of CrPC shall accordingly stand allowed."*

10. Having regard to the contentions of learned counsel for the parties and the fact that both the parties to the litigation have entered into compromise and on that basis, the present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed for quashing the present FIR. The compromise has been arrived at with the intervention of the respectables and family members and the parties

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have decided to keep harmony between them and to live peacefully in future. Hence, it would be in the interest of justice that parties are allowed to compromise the matter. Moreover, learned counsel for the parties are *ad idem* that, in view of the settlement of disputes between the parties, the present petition deserves to be accepted in this context.

11. In view of above, the instant petition is allowed. Consequently, the impugned FIR No.13 dated 25.02.2024 registered under Sections 376(2)(n) of Indian Penal Code, 1860 at Police Station Nayagaon, Mohali (Annexure P-1) and all other consequential proceedings arising therefrom are hereby quashed, on the basis of compromise, qua the petitioner only.

**24.03.2025***kothiyal***(NAMIT KUMAR)  
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No