



CRM-M-45800-2024

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

**CRM-M-45800-2024
Decided on 15.09.2025**

Kanwar Ripu Daman

.....Petitioner

Versus

State of Punjab and Another

.....Respondents

CORAM : HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Saransh Sabharwal, Advocate
 for the petitioner.

 Mr. Kunwarbir Singh, AAG Punjab.

 Mr. Ravi Inder Singh, Advocate
 for respondent No.2.

SHALINI SINGH NAGPAL, J.

1. Petitioner seeks quashing of FIR No. 0071 dated 21.03.2023 under Section 376 of Indian Penal Code, Police Station Kharar, District SAS Nagar and all subsequent proceedings arising therefrom, on the basis of compromise dated 06.09.2024.
2. On 16.12.2024, this Court directed the parties to appear before learned trial Court/Illaq Magistrate for recording of their statements regarding compromise dated 06.09.2024.
3. In compliance of the aforesaid order, parties appeared before learned JMIC, Kharar on 07.01.2025. Statement of Investigating Officer ASI Kulwinder Singh, was recorded on 16.04.2025. Learned JMIC, Kharar 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:



“The undersigned has carefully gone through the statements got recorded by complainant and accused and it appears from the statements of the parties that the compromise is genuine, voluntary and without any coercion or undue influence.

Further from the statement of Investigating Officer ASI Kulwinder Singh, it appears that one person is arrayed as accused in the present case and he is not declared as a proclaimed offender. From the statement of Investigating Officer it also appears that the present accused is not involved in any other FIR and in the present case there is only one victim/complainant. The victim/complainant as well as accused are party to the present compromise in question. Accordingly, the report is submitted.”

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. A written complaint was filed by prosecutrix “A” (name withheld), submitting that she divorced her husband in 2013 and since 2016, she was in relationship with Kanwar Ripu Daman who was working as a Clerk in the office of Department of Soil and Water Conservation, Mohali. On the pretext of marriage, Ripu Daman made physical relations with her. In April 2022, he told her that he was going to London on 01.05.2022 to meet his elder sister. On 01.05.2022, he blocked her number. She called his brother-in-law who informed her that Ripu Daman was still in India and had married one Rachna. Thereafter, Ripu Daman called her and assured that he



would meet her the next morning. When she called on his number, Rachna took her call and they had heated arguments. Thereafter, Ripu Daman told her that Rachna left his company immediately after she spoke with her. The next day, he informed that her relatives took her (Rachna) back to her parental home. Thereafter again, he met her on several occasions and they had physical relations in the month of May, 2022 in his home at Sunny Enclave. She kept insisting for marriage but he refused on the pretext of his mother's health. On 15.09.2022, he told her that his sister Ruhani was missing. DDR was registered in that regard. She took call detail records of his sister and learnt that Rachna wife of petitioner was in contact with his sister. When she confronted Ripu Daman, he started extending threats that he would get FIR registered against her for kidnapping his sister. She moved a complaint to SHO, Police Station City Kharar regarding the incident. They were called to the Police Station where she learnt that petitioner married Rachna on 22.04.2022. Despite being married, he maintained physical relations with her and misled her on the pretext of marriage. She had an abortion in April, 2018 when he forced her to terminate the pregnancy and took her to Mangal Nursing Home, Sector-23, Chandigarh. At that time, he assured that he would marry her. She alleged that from that time, he had been causing her mental as well as physical harassment.

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. 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. It is conceded by respondent No.2, complainant in the FIR that she was in relationship with the petitioner since 2016 and the relationship continued till end of April, 2022, whereafter on 01.05.2022, petitioner blocked her number. Age of complainant was 40 years at the time of alleged commission of offence and petitioner was 37 years old. Complainant is a working lady. The relationship continued for as long as 6 years. Complainant did not disclose when petitioner made physical relations with her for the first time and whether she was cheated into making physical relations for the first time on the promise of marriage. 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. Even otherwise, after respondent No.2 learnt about petitioner's marriage with Rachna, she continued to maintain physical relations with him. The facts speak for themselves. Evidently, respondent No.2 and petitioner were in a consensual relationship. Had the physical relations from 2016 to 2022 been made only on the promise of marriage, there was no reason why the relations would have continued even after marriage of the petitioner. Thus, even if the allegations in the FIR are accepted on their face value, ingredients of the offence under Section 376(2)(n) 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. In that case, the complainant expressed desire not to pursue the case on the ground that she was now married, settled in personal life and continuing with the criminal proceedings would only disturb her peace and stability. 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. 0071 dated 21.03.2023 under Sections 376 of Indian Penal Code, Police Station Kharar, District SAS Nagar and all subsequent proceedings arising therefrom, are quashed qua the petitioner, on the basis of compromise dated 06.09.2024.

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

(SHALINI SINGH NAGPAL)
JUDGE

15.09.2025
Sumit Singla

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No