Neutral Citation No. - 2023:AHC-LKO:85429

Reserved On 24.11.2023

Delivered On 22.12.2023

Court No. - 11

Case :- APPLICATION U/S 482 No. - 9944 of 2023

Applicant :- Ankit Kumar @ Ankit (As Per Fir)
Opposite Party :- State Of U.P. Thru. Prin.Secy. Deptt. Of Home And 2 Others
Counsel for Applicant :- Azhar Ikram
Counsel for Opposite Party :- G.A.,Manish Singh,Ram Mohan Mishra

Hon'ble Saurabh Lavania,J.

Heard learned counsel for the applicant, learned AGA for the State of U.P. and Sri Manish Singh, Advocate and Ram Mohan Mishra, Advocate for the opposite parties and gone through the record.

The present application under Section 482 Cr.P.C. has been filed for the following main relief:-

> *"For the facts, reasons and circumstances mentioned in the accompanying petition/application under section 482 Cr.P.C. and its affidavit, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to quash entire proceedings arising on the basis of charge sheet no. 435/2014 dated 11.11.2014 of case no. 503/2016 titling "State of U.P. Vs. Ankit" pertaining to Case Crime No. 567 of 2014, Under Section 363/366/352/504/506 I.P.C. & and 7/8 POCSO ACT, relating to Police Station- Thakurganj, District - Lucknow, pending in the Court of Juvenile Justice Board, Lucknow.*
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> *It is further prayed that the proceeding arising out of charge sheet no. 435/2014 dated 11.11.2014 of case no. 503/2016 titling "State of U.P. Vs. Ankit" pertaining to Case Crime No. 567 of 2014, Under Section 363/366/352/504/506 I.P.C. & and 7/8 POCSO*

ACT, relating to Police Station- Thakurganj, District - Lucknow, pending in the Court of Juvenile Justice Board, Lucknow, may kindly be stayed during the pendency of the present petition."

Learned counsel for the applicant, for the purposes of main relief sought, submitted that the applicant earlier approached this Court by means of APPLICATION U/S 482 No. - 865 of 2022 and this Court after considering the facts and circumstances of the case disposed of the said application vide order dated 06.02.2023 with direction to the concerned court to verify the compromise/settlement and prepare a report in this regard and liberty was also granted to the applicant to approach this Court on the basis of said verified compromise/settlement.

The order dated 06.02.2023 referred by the learned counsel for the applicant, passed in APPLICATION U/S 482 No. - 865 of 2022 reads as under:-

"Shri Azhar Ikram, the learned counsel for the applicant, after some arguments, submits that he is confining his prayer at this stage to the extent that a positive direction be given to the court below that if applicant files compromise application before it, the same may be verified by the court below at the earliest, as both the parties have entered into a compromise outside the court.

Learned A.G.A. for the State as well as Shri Manish Singh, the learned counsel for the opposite party No. 2 and 3 have no objection.

Accordingly, the present application is finally disposed of with a direction to the court below that if any compromise application is filed by the applicant before it, the same may be verified without any further delay.

Certified copies annexed with this application be returned to the learned counsel for the applicant after keeping photostat of the same on the record."

He submitted that in terms of order of this Court dated 06.02.2023 the trial court has verified the compromise/settlement on 15.07.2023, which is evident from annexure No.12, a copy of the order of trial court dated 15.07.2023.

Learned counsel for the applicant further submitted that initially the FIR in issue, which is the basis of entire criminal proceedings pending before the trial court, was lodged on 07.07.2014 by the informant/complainant under Sections 363, 366, 352, 504 IPC at Police Station-Thakurganj, District-Lucknow.

The main allegation in the FIR against the applicant is to the effect that the applicant enticed away the opposite party No.2 (Victim), who, on the date of incident i.e. 07.07.2014 was aged about 14 years, in the morning at about 04:00 A.M. The opposite party No.2 was recovered on the same day and thereafter, on 07.07.2014 medical examination of opposite party No.2 was conducted by the Doctor concerned and as per Medical Report, no mark of injury either on external part or on internal part was found on the body of the opposite party No.2.

He further submitted that the statement of opposite party No.2 was recorded under Section 161 Cr.P.C. and as per this statement, opposite party No.2 and applicant were studying in same school in Class 7th and 9th, respectively, and both were known to each other. In this statement, certain allegations have been levelled to attract the offences indicates under Section(s)

363, 366, 352, 504, 506 IPC and 7/8 of POCSO Act, however, all the allegations are false and concocted and it appears that the same have been given by the opposite party No.2 under pressure of family members as they were not happy with the friendship of the applicant and opposite party No.2.

He further submitted that no doubt the opposite party No.2 accompanied to the house of applicant and thereafter, both went to market for the purposes of purchasing clothes and except this, the allegations levelled against the applicant are completely false and concocted.

He also submitted that the statement of opposite party No.2, as required under Section 164 Cr.P.C., was recorded, which is not in consonance with the statement recorded under Sections 161 Cr.P.C. though, the same was recorded only after few days from the date of alleged incident, which, as per FIR, is of 07.11.2014 and the statement was recorded on 11.07.2014.

It is also stated that learned Additional District and Sessions Judge, Room No. 11, Lucknow, after observing that the applicant is aged about 16 years vide order dated 20.10.2014 declared the applicant as juvenile and thereafter, charge sheet was submitted by the Investigating Officer on 11.11.2014 against the applicant and learned Special Judge POCSO Act/ Additional District and Sessions Judge, Room No. 11, Lucknow, has taken cognizance on the said charge sheet on 30.05.2016 and transferred the said matter to the learned Juvenile Justice Board, Lucknow. However, till date despite the

fact that about 7 years have elapsed, no witness has been examined.

He further submitted that the applicant and opposite party No.2, at relevant point of time, were of tender age and both were not acquaintance with the consequence of friendship or infatuation, which, ultimately culminated into pending criminal case against the applicant and this case would also affect the future prospects of the applicant and opposite party No.2.

He further submitted that both the parties on attaining the age of majority came to know about the impact of pending case in issue on their life and therefore they have settled the dispute and now the opposite party No.2 and opposite party No.3 (informant) do not want to pursue the case further and in this view of the matter as also taking note of the fact that till date no witness has been examined whereas the FIR is of 07.11.2014 no purpose would be served in keeping the case in issue live and on the other hand, pendency of the case in issue would be prejudicial to both the parties. In this regard, reliance has been placed on the certified copy of the compromise dated 16.01.2023, which is annexed as Annexure No.11 to this application.

For the purposes of quashing the pending proceedings on the basis of compromise/settlement, learned counsel for the parties placed reliance on the judgments of the Apex Court in the case(s) of ***Romgopal and others Vs. State of Madhya Pradesh, 2022 (1) SCJ 536, Gian Singh Vs. State of Punjab [2012 10 SCC 303], Mohd. Ibrahim Vs. State of U.P., 2022 SCC Online ALL 106, Gold Quest International Ltd. Vs. State of***

Tamilnadu, 2014 (15) SCC 235, B.S. Joshi Vs. State of Haryana, 2003 (4) SCC 675, Jitendra Raghuvanshi Vs. Babita Raghuvanshi, 2013(4) SCC 58, Madhavarao Jiwajirao Scindia Vs. Sambhajirao Chandrojirao Angre, 1988 1 SCC 692, Nikhil Merchant Vs. C.B.I. and another, 2008(9) SCC 677, Manoj Sharma Vs. State and others, 2008(16) SCC 1, State of M.P. Vs. Laxmi Narayan and others, 2019(5) SCC 688, Narindra Singh and others Vs. State of Punjab and another, (2014) 6 SCC 466, Manoj Kumar and others Vs. State of U.P and others (2008) 8 SCC 781, Union Carbide Corporation and others Vs. Union of India and others (1991) 4 SCC 584, Manohar Lal Sharma Vs. Principal Secretary and others (2014) 2 SCC 532 and Supreme Court Bar Association Vs. Union of India (1998) 4 SCC 409.

In addition to above, reliance has been placed on the judgments passed by the Hon'ble Apex Court in the case of ***P. Yuvaprakash vs. State Rep. By Inspector of Police; AIR 2023 SC 3525; Vishwas Bhandari vs. State of Punjab And Another; (2021) 2 SCC 605.***

Reliance has also been placed on the judgments passed by this Court on the ***Application U/S 482 No. 9813 of 2023 (Ram Kishor @ Kishor vs. State of U.P. And Another), Criminal Appeal U/S 372 Cr.P.C. No. 6 of 2023 (Ram Chandra vs. State of U.P. And Another), Monish vs. State of U.P. & Others; 2023 (2) ACR 1546; Application U/S 482 No. 3040 of 2023 (Bhim Sen vs. State of U.P. and Ors.); MANU/UP/0496/2023; Application U/S 482 No. 16207 of 2022 (Guddu and Ors. vs. State of U.P. and Ors.); MANU/UP/1962/2022.***

Prayer is to allow the present application.

Learned Additional Government Advocate could not dispute the aforesaid facts as also that the compromise has been entered into between the parties and now the opposite party Nos. 2 and 3 do not want to proceed with proceedings in issue. However, he opposed the prayer sought in the present application.

Learned counsel for the side opposite namely opposite party No.2 (victim) has stated that continuance of the proceedings before the trial court in view of future prospects/avenues would be fatal for the parties to the litigation and for the purposes of peaceful living of both the parties as also the family members, indulgence of this Court is required in the matter.

Considered the submissions advanced by learned counsel for the parties and perused the records including the order dated 06.02.2023 passed by this Court in APPLICATION U/S 482 No. - 865 of 2023 and also the order of trial court dated 15.07.2023, which indicates that the trial court has verified the compromise in compliance of order of this Court dated 06.02.2023 and that the opposite party Nos.2 and 3 do not want to proceed with the proceedings in issue and they have entered into the compromise on 16.01.2023 as also taking note of the observations made by Hon'ble Apex Court in the judgments, referred above and cause of lodging of the FIR, which appears to be on account of the fact that parents of the victim were not appreciating the friendship of the minors and the affect of the pending proceedings on the applicant and victim, who at relevant time were minors, and if the

proceedings in issue are allowed to continue then the same would be fatal to the future prospects of the applicant and victim and also the fact that the case of in issue is pending since 2014 and till date no witness has been examined and also the observations made in the following judgments.

A three judge Bench of the Apex Court in the case of **GIAN SINGH V. STATE OF PUNJAB (2012) 10 SCC 303,** observes the plenitude of power of this Court for its exercise under Section 482 of the Cr.P.C. and holds that cases can be closed on account of settlement barring heinous offences, the Apex Court has held as follows:-

> *"61. 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 to 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, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be where the and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc., cannot provide for any basis for*

> *quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominating civil stand on a 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 personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."*
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> *(Emphasis supplied)*

A three Judge Bench of the Apex Court again in **PARBATBHAI AAHIR V. STATE OF GUJARAT (2017) 9 SCC 641** has held as follows:-

> *"16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:*
>
> *16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.*
>
> *16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the*

purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated. This extract is taken from Parbatbhai Aanir v. State of Gujarat, (2017) 9 SCC 641: (2018) 1 SCC (Cri) 1: 2017 SCC OnLine SC 1189 at page 653

16.6. In the exercise of the power under Section 482 while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7 As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

> *16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and*
>
> *16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."*
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> *(Emphasis supplied)*

The High Court of Bombay by its judgment passed in Criminal Application No. 298 of 2020 dated 21-07-2020 has held as follows:-

> *"5. Considering the nature of accusations the non-applicant: No.2, the fact that the made by victim boy, though minor, was aged about 17 years at the time of the incident and as the parties have amicably worked out the matter and the trial has not yet commenced, we are of the view that no fruitful purpose would be achieved by keeping the trial pending and interests of justice would be sub-served by quashing the proceedings subject to utilising the amount deposited by the applicant and non-applicant No.2 for some appropriate purpose."*
>
> *(Emphasis supplied)*

A Division Bench of High Court Gujarat by its judgment passed in R/Special Criminal Application No. 765 of 2020 dated 29-06-2020 has held as follows:-

> *"7. We noticed that the Respondent No.5 is himself a minor and is yet to be found. We are also at pain to learn that though himself is a minor, has chosen to take away the corpus who is a minor, lending himself in the net of law, particularly of the Protection of Children from Sexual Offences Act (POCSO Act).*
>
> *7.1 This Act is brought on the statute book with laudable objectives, with a view to protect the girl*

child in the society, with more and more offences affecting the girl children.

7.2 We also notice that young boys who themselves are not major, many a times without realising the consequences of their act, or many a times actuated by frenzy of youth, with careless approach towards stringent laws eventually label themselves as offenders in the matters of POCSO, and face serious consequences of rigorous punishment prescribed under the law.

7.3 It became expedient for us to make a specific reference of this aspect, having noticed this in many Petitions of Habeas Corpus. It is therefore, expressed that right kind of understanding needs to be given, in the form of legal awareness amongst the children and the college students so that the society can simultaneously protect very young minor R/SCR.A/765/2020 ORDER boys, who due to their lake of understanding of law, turn into the offenders in serious matters.

7.4 The Superintendent of Police, Mehsana ensures to take up this issue with the Anti Human Trafficking cell and the District Legal Services Authority for creating awareness amongst the youngsters."

The High Court of Madras by its judgment passed in Criminal O.P. No. 232 of 2021 and Criminal M.P. No. 109 of 2021 dated 27-01-2021 has held as follows:-

"1. There can be no second thought as to the seriousness of offences under the POCSO Act and the object it seeks to achieve. However, it is also imperative for this Court to draw the thin line that demarcates the nature of acts that should not be made to fall within the scope of the Act, for such is the severity of the sentences provided under the Act, justifiably so, that if acted upon hastily or irresponsibly, it could lead to irreparable damage to the reputation and livelihood of youth whose actions would have been only innocuous. What came to be a law to protect and render justice to victims and survivors of child abuse, can, become a tool in the hands of certain sections of the society to abuse the process of law.

12. As rightly recognized by the Learned Single Judge this Court in Sabari's Case (cited supra), incidences where teenagers and young adults fall victim to offences under the POCSO Act being slapped against

them without understanding the implication of the severity of the enactment is an issue that brings much concern to the conscience of this Court. A reading of the Statement of Objects and Reasons of the POCSO Act would show that the Act was brought into force to protect children from offences of sexual assault, sexual harassment and pornography, pursuant to Article 15 of the Constitution of India, 1950 and the Convention on the Rights of the Child. However, a large array of cases filed under the POCSO Act seems to be those arising on the basis of complaints registered by the families of adolescents and teenagers who are involved in romantic relationships with each other. The scheme of Act clearly shows that it did not to bring within its scope or ambit, cases of the nature where adolescents or teenagers involved in romantic relationships are concerned.

13. This Court, therefore, deems it fit and to take a moment to delve into an important aspect, the awareness of which is crucial in understanding and dealing with cases of this nature. It is crucial to be aware of the science and psychology of adolescence and young adulthood at this juncture. 'This is because social and biological phenomena are widely recognized determinants of human development, health, as socio-economic attainments across the life course, but our and understanding of the underlying pathways and processes remains limited. Therefore, a "biosocialapproach" i.e. one that conceptualizes the biological and social as mutually constituting, and draws on models and methods from the biomedical and social/behavioral sciences, is required. (McDade, T. W., & Harris, K. M. (2018). The Biosocial to Human Development, Behavior, and Health Across the Life Course. The Russell Sage Foundation journal of the social sciences: RSF, 4(4), 2-26.)

14. The UN has come to formally define 'adolescence as the period between 10 and 19 years of age and young people between 10 to 24 years of age, in the South East Asia Region. Adolescence and young adulthood form continuum there are for many development processes, but also unique aspects of young adulthood. Scientists study brain development have spent much time looking at adolescents than at young adults. By the time people become young adults, significant aspects of their neurobiology have reached adult levels. However, their brains also continue to change in part because of continuing brain development, and in part because Behaviour is always

remodelling the brain. Brain plasticity is evident throughout the lifespan but different kinds of plasticity come to the fore at different stages. For example, from childhood through adulthood, the gray matter in the brain, which contains neurons, thins as it loses synaptic connections and it is a method that the brain uses to sculpt itself to a particular environment. Studies of particular brain regions show continued changes after adolescence. It has been observed that the pathways that connect different parts of the brain also change over time. The decision-making ability is a reflection of the development of the superior longitudinal fasciculus, which is involved in cognition and executive function. This superior longitudinal fasciculus continues to protracted physical, biological, and neurological develop throughout the young adult years. Profound and changes linked to puberty occur throughout adolescence and early adulthood. Hormonal changes prompt a literal remodeling of cortical and limbic circuits in the brain that were previously in the perinatal period and that, in combination with adolescent social experiences and contexts, affect general cognition, decision making, and behavior into adulthood. (Sisk CL, & ZehrJL (2005). Pubertal hormones organize the adolescent brain and behavior. Frontiers in Neuroendocrinology, 26(3-4), 163-174.

15. It is only relatively recently that neurobiologists have started to probe into the neural basis of one of the most powerful and exhilarating states known to humans, namely love. Studies largely show that the basic human motivations and emotions arise from distinct systems of neural activity and that these systems derive from mammalian precursors. Thus, it is only natural that this mechanism is also active in Homo Sapiens i.e. humans. Adolescence is associated with many psychosocial and developmental challenges, including the processing of intense emotions and "first loves". (Arnett J.J. Adolescence and Emerging Adulthood. Pearson Education Limited; New York, NY, USA: 2014.) It is now well evidenced that adolescent romance is an important developmental marker for adolescents self-identity, functioning and capacity for intimacy. Developmental-contextual theories of adolescent romantic stages also provide a framework for how romantic relationships assist young adults with addressing their identity and intimacy needs. Therefore, the age of adolescence as can be seen evidently, is one associated with an amassing change in the neurological, cognitive and psychological systems of a person and one of the most important

aspect is that the individual tries to establish their identity, develops emotional and biological needs during this period as a result of which the individual tends to look for new relationships, bonding and partnership. It is also important to acknowledge in addition to this, the vast exposure that is available to adolescents and youth in the form of digital content that play a major role in Influencing their growth and identity.

16. In Light of the above, it is only natural that there are cases of the above-mentioned nature that are on the rise at present and it does not help matters to avoid acknowledging that the society is changing and influencing people's identity and cognition, constantly. Therefore, painting a criminal colour this aspect would only serve to counter- productively to understanding biosocial dynamics and the need to regulate the same through the process of law.

17. This Court is not turning a blind eye to cases where the victim or survivor may, under the effect of trauma that they have undergone, studies on which show that they might tend to reconcile with the same by blaming themselves or convincing themselves that the element of consent was infact present. Nor is this Court scientifically justifying in toto, the genuineness or predicament of the accused in every case where it appears that the accused and victim child have been in a romantic relationship. That will depend on the facts and circumstances of each and every case.

18. In the present case, the 2nd Petitioner who was in relationship with the 2nd Respondent who is also in his early twenties, has clearly stated that she was the one who insisted that the 2nd Respondent take her away from her home and marry her, due to the pressure exerted by her parents. The 2nd Respondent, who was placed in a very precarious situation decided to concede to the demand of the 2nd Petitioner. Thereafter, they sloped from their respective homes, got married and consummated the marriage. Incidents of this nature keep occurring regularly even now in villages and towns and occasionally in cities. After the parents or family lodge a the police register FIRs for offences of kidnapping and various offences under the POCSO Act. Several criminal cases, booked under the POCSO Act fall under this category. As a consequence of such a FIR being registered, invariably the boy gets arrested and thereafter, his youthful life comes to a grinding halt. The provisions of the POCSO Act, as it stands today, will surely make the acts of the boy an

> *offence due to its stringent nature. An adolescent boy caught in a situation like this will surely have no defense if the criminal case is taken to its logical end. Punishing an adolescent boy who enters into a relationship with a minor girl by treating him as an offender, was never the objective of the POCSO Act. An adolescent boy and girl are in the grips of their hormones who and biological changes and whose decision-making ability is yet to fully develop, should essentially receive the support and guidance of their parents and the society at large. These incidents should never be perceived from an adult's point of view and such an understanding will in fact lead to lack of empathy. An adolescent boy who is sent to prison in a case of this nature will be persecuted throughout his life. It is high time that the on the file of the learned Sessions Judge, Mahila Court (Fast Track Mahila Court) Erode in exercise of its jurisdiction under Section 482 of the Criminal Procedure Coda, 1973. Accordingly, the same is quashed and this Criminal Original Petition is allowed. Consequently, miscellaneous petition is also closed." Connected miscellaneous petition is also closed."*
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> *(Emphasis supplied)*

The High Court of Madras in the case of **SABARI v. INSPECTOR OF POLICE AND OTHERS 2019 SCC OnLine Mad 18850,** while considering closure of the case in a matter involving the offence under the POCSO Act has held as follows:-

> *"21. When this case was taken up for hearing, this Court became concerned about the growing incidence of offences under the POCSO Act on one side and also the Rigorous Imprisonment envisaged in the Act. Sometimes it happens that such offences are slapped against teenagers, who fall victim of the application of the POCSO Act at an young age without understanding the implication of the severity of the enactment.*
>
> *38. Apart from the above, this Court is of the view that as per the 3rd respondent's report, majority of cases are due to relationship between adolescent boys and girls. Though under Section 2(d) of the Act, 'Child' is defined as a person below the age of 18 years and in case of any love affair between a girl and a boy, where the girl happened to be 16 or 17*

years old, either in the school final or entering the college, the relationship invariably assumes the penal character by subjecting the boy to the rigours of POCSO Act. Once the age of the girl is established in such relationship as below 18 years, the boy involved in the relationship is sure to be sentenced 7 years or 10 years as minimum imprisonment, as the case may be."

(Emphasis supplied)

In a judgment rendered on 21-02-2022 the High Court of Delhi passed in **Crl.M.C.27 of 2022** considering an identical situation has held as follows:-

"6. The purpose of Section 482 Cr.P.C is primarily to secure the ends of justice. In Gian Singh v. State of Punjab, (2012) 10 SCC 303. The Supreme Court has observed as under: "55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, It is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole Idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires, exercise with great caution and circumspection.56. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided."

(emphasis supplied)

8. Considering the fact that the whole life of Petitioner No.1 and Petitioner No.2 and their child would be ruined, this Court asked the learned APP as to whether she has any objections if this Court exercises its jurisdiction under Section 482 Cr.P.C and

> *quash the FIR. Learned APP for the State very fairly and taking humanitarian approach stated that she has no objections if the instant FIR is quashed.*
>
> *9. In view of the peculiar facts and circumstances of quash the FIR this case, this Court is inclined to dated 30.10.2019 Resultantly, FIR No.275/2019 registered at Police Station Delhi Cantt for offences under Section 363/366/376 IPC and Section 6 of the POCSO Act and the proceedings emanating there from are hereby quashed."*

Upon due consideration of above, this Court is of the view that no purpose would be served in keeping the proceedings pending before the trial court and hence, the same are hereby quashed.

Accordingly, the present application U/S 482 Cr.P.C. is ***allowed***.

Office is directed to send a copy of this order to the court concerned through email/fax immediately for necessary compliance.

Order Date :-22.12.2023
Vinay/-

Digitally signed by :-
VINAY KUMAR
High Court of Judicature at Allahabad,
Lucknow Bench