

**HIGH COURT OF TRIPURA
AGARTALA**

CRL. PETN. NO.21 OF 2024

Ms. Ekata Deb

Vs.

State of Tripura and ors.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Present:

For the Petitioner(s) : Ms. R. Purukayastha, Advocate.

For the Respondent(s) : Mr. A. Puri, Advocate.
Ms. A.S. Hirawat, Advocate.

20.06.2024

Order

This present petition has been filed under Section 482 of the Code of Criminal Procedure 1973 for quashing of FIR No.KKB(PS)75/2019 registered at P.S. Kakraban under Section 384, 189, 120(B), 506 of the Indian Penal Code, 1860 and Section 67A of the IT Act, 2000.

2. The brief fact of the case is that the petitioner herein has preferred this present petition for quashing the impugned FIR in view of the settlement agreement dated 15.06.2024, wherein, the parties have arrived at an amicable settlement. The respondents No.2 to 6 do not wish to pursue the FIR filed by them bearing FIR No. KKB(PS)75/2019.

3. Heard Ms. R. Purukayastha, learned counsel appearing for the petitioner as well as Mr. R. Datta, learned P.P., appearing for the State-respondent and Mr. A. Puri, learned

counsel along with Mr. A.S. Hirawat, learned counsel appearing for the respondents-ONGC.

4. Ms. R. Purukayastha, learned counsel appearing for the petitioner submits that a settlement has been reached between the parties and her client wants to settle the matter.

5. Mr. R. Datta, learned P.P., appearing for the State-respondent submits that this is not an appropriate case for amicable settlement and quashing of the FIR but it is the case where the Trial Court has to decide the same. The petitioner has also not approached the Trial Court with the prayer for an amicable settlement.

6. Mr. Puri, learned counsel appearing for the respondents-ONGC in the Bar submits that similar and identical facts were decided by Hon'ble Supreme Court in its Judgment reported in **(2022) 15 SCC 44** titled as **Kapil Gupta and State(NCT of Delhi) and anr.** The relevant paras of the same are reproduced here-in-under:-

"1. The appeal challenges the judgment and order dated 28.09.2021 passed by the learned single judge of the High Court of Delhi, thereby dismissing Criminal M.C. No. 1567 of 2021 vide which the application filed by the respondent for quashing the proceedings under [Section 376](#) of the Indian Penal Code ('IPC') came to be rejected.

2. First Information Report ('FIR') No.569 of 2020 came to be registered on 25.08.2020 at the instance of Respondent No.2 herein. It is stated in the FIR that in February, 2020, she met with an accident and sustained injuries on her thigh and ankle. It is stated that she was helpless and financially disturbed. It was further stated that she was interested in joining a multinational company for future security and was in search of a job. In her search, the complainant came to know that the appellant was looking for a personal assistant. It is further the prosecution case that there was an exchange of messages between the Respondent No.2 and the appellant. Thereafter, the Respondent No.2 sent her location to the appellant and the appellant went to her house. Thereafter, the incident of rape is alleged to have taken place.

3. It appears that after the aforesaid FIR was lodged, another FIR came to be lodged by the present appellant against Respondent No.2 making allegations of extortion.

11. 12. No doubt that the learned ASG is right in relying on various judgments of this Court which reiterate the legal position that in heinous and serious offences like murder or rape, the Court should not quash the proceedings. It will be relevant to refer to paragraph 29.5 to 29.7 of the judgment of this Court in the case of [Narender Singh versus State of Punjab](#), which read thus:

"29.5 While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6 Offences under [Section 307](#) IPC would fall in the category of heinous and serious 1 (2014) 6 SCC 466 offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of [Section 307](#) IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307](#) IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under [Section 307](#) IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7 While deciding whether to exercise its power under [Section 482](#) of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the chargesheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under [Section 482](#) of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under [Section 307](#) IPC is committed or not.

Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under [Section 307](#) IPC and conviction is already recorded of a heinous crime and,

therefore, there is no question of sparing a convict found guilty of such a crime."

12. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

13. The Court has further held that it is also relevant to consider as to what is stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.

14. The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent No.2 is a young lady of 23 years. She feels that going through trial in one case, where she is a complainant and in the other case, wherein she is the accused would rob the prime of her youth. She feels that if she is made to face the trial rather than getting any relief, she would be faced with agony of undergoing the trial.

15. In both the cases, though the charge sheets have been filed, the charges are yet to be framed and as such, the trial has not yet commenced. It is further to be noted that since the respondent No.2 herself is not supporting the prosecution case, even if the criminal trial is permitted to go ahead, it will end in nothing else than an acquittal. If the request of the parties is denied, it will be amounting to only adding one more criminal case to the already overburdened criminal courts.

16. In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent No. 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.

7. Heard both sides and perused the evidence on record.

8. As this Court finds that the present case herein and the case decided by the Hon'ble Supreme Court as referred by the learned counsel for the respondents-ONGC are identical in facts and circumstances, this Court in terms of the observations

as given in the ***Kapil Gupta and State(NCT of Delhi)[supra]*** by the Hon'ble Supreme Court is inclined to allow this petition and set aside the impugned FIR. Accordingly, the same is ordered.

9. With the above observation and direction, this present petition stands allowed and thus disposed of. As a sequel, stay if any also stands closed. Pending application(s), if any also stands closed.

JUDGE



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