



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

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**CRM-M No.15518 of 2024
Date of decision: 22.05.2024**

SANDEEP KUMAR AND ANOTHER**.... Petitioners**

Versus

STATE OF HARYANA AND ANOTHER**.... Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present : Mr. Sunil Saharan, Advocate for the petitioners.

Ms. Nidhi Garg, A.A.G., Haryana.

Mr. R.S. Pathania, Advocate for respondent No.2.

MANISHA BATRA, J. (oral)

1. The present petition has been filed under Section 482 of Code of Criminal Procedure for quashing of FIR No.872 dated 30.09.2021 under Sections 323, 354A, 354B, 506 of IPC, Section 8 of POCSO Act and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (from hereon referred to as 'SC/ST Act'), 1989 registered at Police Station Sadar Hisar, District Hisar (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of compromise dated 14.03.2024 (Annexure P-2).

2. The aforementioned FIR had been lodged by respondent No.2/complainant and investigation was commenced thereon.

3. It is submitted by counsel for the petitioners that a compromise has been arrived at between the parties and they have resolved their *inter se* dispute, which was reduced into writing as compromise dated 14.03.2024 annexed with the present petition as Annexure P-2.



4. On the basis of said compromise, the petitioners have prayed for quashing of the aforesaid FIR and all the subsequent proceedings on the ground that continuation of such proceedings would be a futile exercise.

5. *Per contra*, learned State counsel has argued that the allegations made by respondent No. 2 against the petitioner no.1 fall within the provisions of SC/ST Act. In the present case, it is alleged that the offence has been committed by the petitioner no.1 by uttering caste-based words towards the respondent while she was coming back from the field after picking up the Narma (Cotton).

6. To constitute the offence under the provisions of SC/ST Act, it must be alleged that the accused intentionally insulted or intimidated with intention to humiliate a member of Scheduled Caste or Schedule Tribe in any public place within public view. Merely uttering such wrong words in the absence of any public view does not show any intention or *mens rea* to humiliate the complainant who belongs to Scheduled Caste community. It would not thus, *ipso-facto*, constitute acts of commission of offence which are capable of being taken cognizance under the SC/ST Act, 1989. Reliance in this regard can be on the decisions reported in ***Hitesh Verma v. State of Uttarakhand &Anr. (2020) 10 SCC 710, Pramod Suryabhan Pawar v. State of Maharashtra &Anr. (2019) 9 SCC 608 (before this Court), State v. Om Prakash Rana &Ors. (2013) SCC OnLine Delhi 5107, Kusum Lata v. State &Ors. (2016) SCC OnLine Del 1379 and Swaran Singh &Ors. v. State &Anr (2008) 8 SCC 435***, to contend on what and when the "public view" requirement is satisfied. The allegations in the instant complaints do not satisfy the required ingredients of any offence under the Act of 1989. There is nothing

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in the F.I.R. to show that any member of the public was present when the petitioner uttered these words. Since no offence under Section 3 of the SC & ST Act is found to be made out, the offence under Section 506 IPC, which stemmed out of the alleged offence under Section 3 of the SC and ST Act, is also not made out.

7. This Court vide order dated 08.04.2024 had directed the parties to appear before the Illaqa Magistrate/trial Court for recording their statements with regard to the genuineness of the compromise stated to have been arrived at between them. The Illaqa Magistrate/trial Court was also directed to send his/her report along with the said statements.

8. Pursuant to the aforesaid order, the Additional Sessions Judge, Hisar has sent report vide endorsement No.365 dated 09.05.2024 to this Court along with the statements of respondent No.2/complainant, petitioners/accused and statement of Investigating Officer Inspector-Suresh Kumar recorded on 26.04.2024.

9. On the basis of these statements, it is submitted by learned Magistrate that the compromise effected between the parties is genuine, out of free Will and without any pressure or coercion. It is also mentioned in the report that apart from the petitioners, there is no other accused in the FIR and that the accused have not been declared proclaimed persons in this case.

10. I have heard learned counsel for the parties and besides perusing the report by learned Additional Sessions Judge, have also perused the record.

11. It is well settled that the High Court has power to allow compounding of a non-compoundable offence and quash the prosecution under Section 482 of Cr.P.C. where it feels that the same is required to prevent the



abuse of process of law or otherwise to secure the ends of justice. In this regard, reference can be made to a Full Bench judgment of this Court in ***Kulwinder Singh and others v. State of Punjab, 2007 (3) RCR (Criminal) 1052***. It is equally settled position of law that the power of High Court in quashing criminal proceedings or FIR or complaint in exercise of its inherent jurisdiction is of wide plenitude with no statutory limitation. Such power can certainly be exercised in cases where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. The High Court is required to consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law and whether to secure the ends of justice, it is appropriate to put an end to the criminal case and if the answer to such question is in affirmative, then the High Court is well within its jurisdiction to quash the criminal proceedings. Reference in this context can be made to Hon'ble Apex Court judgments cited as ***Gian Singh v. State of Punjab and another, 2012 (4) RCR (Criminal) 543*** and ***Narinder Singh and others vs. State of Punjab and another, 2014 (6) SCC 466***.

12. So far as the offence under Section 8 of POCSO Act, The High Court of Kerala in the case of ***Vishnu v. State of Kerala & Anr. and other connected matters reported in 2023(2) Ker L.J. 957*** dealt with the similar issue, wherein a bunch of cases filed U/s-482 of Cr.P.C. for quashing of the complaint of FIR wherein alleged offences under the POCSO Act was taken altogether and the fact in all those cases remained that there has been settlement/compromise between the parties i.e. petitioner and victim. Herein the Hon'ble court was poised with the question whether court can quash any



proceeding with regard to sexual offences against women and children wherein settlement between the parties have taken place. Paragraphs-16 of the said judgment read as under :-

16. *"From the precedents and law on the subject enunciated above, it can be concluded that though the High Court should not normally interfere with the investigation/criminal proceedings involving sexual offences against women and children only on the ground of settlement, it is not completely foreclosed in exercising its extraordinary power under section 482 of Cr. P.C or Article 226 of the Constitution of India to quash such proceedings in 'extraordinary circumstances' to do complete justice to the parties. However, it is always a difficult task for the Court to identify the so-called 'extraordinary circumstance'. The interest of the victim and the societal interest often clash, making the job of Courts more complex. The issue must be considered from different perspectives, the pros and cons must be weighed, and a rational view must be taken. A holistic approach is called for in identifying the cases fit for compromise."*

13. In view of the proposition as settled in the aforementioned cases, this Court finds that continuation of proceedings would be an abuse of process of the Court in the facts and circumstances of the present case which squarely falls within the ambit and parameters settled by judicial precedents and that allowing and accepting the prayer of the petitioners by quashing of the FIR would be securing the ends of justice, which is primarily the object of legislature enacted under Section 482 of Cr.P.C. Accordingly, the petition is allowed and the FIR No.872 dated 30.09.2021 under Sections 323, 354A, 354B, 506 of IPC, Section 8 of POCSO Act and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (from hereon referred to



as ‘SC/ST Act’), 1989 registered at Police Station Sadar Hisar, District Hisar (Annexure P-1) and all the subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioners on the basis of compromise dated 14.03.2024 (Annexure P-2).

14. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and statements as recorded before learned Additional Sessions Judge.

22.05.2024
Jyoti-IV

(MANISHA BATRA)
JUDGE

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