

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

CRM-M-14518-2015

Date of decision : 07.05.2015

Narender

.....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Kunal Dawar, Advocate for petitioner.

Mr. Jagjot Singh, Advocate for respondent No.2.

DARSHAN SINGH, J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (here-in-after called 'Cr.P.C.') for quashing of FIR No.150 dated 31.05.2014 under Sections 323, 342, 376 and 506 of the Indian Penal Code, 1860 (here-in-after called 'IPC'), Police Station Chandhut, Distt. Palwal, Haryana as well as all the consequent proceedings arising out of the same on the basis of amicable settlement/compromise (Annexure P-4) between the parties.

2- Learned counsel for the petitioner contended that the petitioner and respondent No.2 are closely related. Petitioner is the brother-in-law of respondent No.2 the prosecutrix and they belong to one family. In order to have harmony in the family, the matter has been amicably settled between the parties as per the compromise Annexure P-4. He contended that the continuation of the present proceedings shall be an abuse of process of law and will also create strained relations amongst the members of the family. Thus, the present FIR and the consequent proceedings should be quashed. To support his contentions, he has relied upon cases **Surinder Kamboj and others Vs. State of Punjab and another, 2008(1) RCR (Criminal) 21** and **Harpal Singh alias Soni Vs. State of Haryana and others 2008(4) RCR (Criminal) 459.**

3- I have duly considered the aforesaid contentions.

4- As per the prosecution allegations, on 31.05.2014 in the night at around 1:00 A.M., the prosecutrix/respondent No.2 was sleeping on the roof of her house along with her children. She went down stairs to answer the call of nature. Then, the present petitioner came and stood in front of her. When she asked him as to what he was doing there, he gagged her mouth and started molesting her. She tried to shout. The petitioner tied her hands and mouth with duppta. In spite of repeated refusals, the petitioner did not let the prosecutrix to go and gave her beating with a stick and, thereafter, he did wrong act with her and threatened to ruin her life. On this statement of the prosecutrix, the present case was registered under Sections 323, 342, 376 and 506 IPC. So, there are clear allegations

in the FIR that petitioner committed rape upon the prosecutrix. The copy of the statement made by the prosecutrix in the Court has also been attached as Annexure P-2 wherein also the prosecutrix has categorically deposed that the petitioner assaulted her with danda and committed rape upon her and also threatened to kill and defame her. As per the law laid down by the Hon'ble Supreme Court in case **State of Haryana and others Vs. Ch. Bhajan Lal and Others 1991(1) R.R.C. (Criminal) 383**, the powers under Section 482 Cr.P.C. can only be exercised 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. But that is not the position in the case in hand as there are clear allegations of rape against the petitioner in the FIR and the statement of prosecutrix Annexure P-2 recorded by the learned trial Court.

5- Learned counsel for the petitioner has raised a plea for quashing of the FIR and the consequential proceedings on the basis of compromise between the parties. The copy of the written compromise (Annexure P4) has been placed on the record. In case **Narinder Singh & Others v. State of Punjab & Another 2014(2) R.C.R. (Criminal) 482**, the Hon'ble Apex Court has categorically laid down that the powers of quashing are not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society.

6- So, the Hon'ble Apex Court in the aforesaid authoritative pronouncement, has categorically laid down that powers of quashing should not be exercised in the rape cases. In view of this judgment of Hon'ble Apex Court, cases **Surinder Kamboj and others Vs. State of Punjab and another** (supra) and **Harpal Singh alias Soni Vs. State of Haryana and others** (supra), relied upon by learned counsel for the petitioner are of no help to him.

7- Thus, in view of the aforesaid ratio of law laid down by Hon'ble Apex Court even on the basis of the compromise, the powers under Section 482 Cr.P.C. cannot be exercised in favour of the petitioner in the case in hand being the rape case.

8- Consequently, the present petition being without any substance is hereby dismissed in *limine*.

07.05.2015

sunil yadav

**(DARSHAN SINGH)
JUDGE**