

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

**Crl. Misc. No. M-16131 of 2015
Date of Decision: 17.8.2015.**

Amit

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sandeep Verma, Advocate
for the petitioner.

Ms. Mahima, AAG, Haryana.

Respondent No. 2 in person.

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SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 105 dated 31.3.2015, under Section 363, 366-A of the Indian Penal Code, 1860 ('IPC' for short) and Section 4 of Protection of Children from Sexual Offences Act, 2012 ('Act' for short), registered at Police Station Kosli, District Rewari (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise effected between the parties.

Learned counsel for the petitioner has submitted that statement of the prosecutrix was recorded by the Magistrate and she had stated that no sexual act was committed by the petitioner. Learned counsel has further submitted that petitioner is a 17 years old boy.

Respondent No. 2 is present in person and has been

identified by Assistant Sub Inspector Birender Singh. He has stated that his daughter was taken by the petitioner while she was standing in front of his house and she returned home at 4.00 P.M. He has further submitted that the petitioner had not committed any sexual act with his daughter.

As per the reply filed by the State, Sub Divisional Judicial Magistrate has recorded the statement of the prosecutrix wherein she had not alleged any sexual act having been committed by the petitioner.

As per the Full Bench judgment of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of **Gian Singh vs. State of Punjab and another** 2012 (4) RCR (Crl.) 543, has held as under:-

“57. 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 in 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 justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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 pre-dominatingly civil flavour stand on 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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 wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Although, in the present case, initially complainant had levelled allegations in the FIR that his daughter had been raped by the petitioner but when the statement of the prosecutrix was recorded by the Magistrate, she had not alleged that petitioner had committed any sexual act with her. Petitioner is aged about 17 years whereas the prosecutrix is aged about 14

years. However, now the parties have amicably settled their dispute. Hence, in the facts and circumstances of the present case, continuation of criminal proceedings against the petitioner would not serve any useful purpose.

Accordingly, this petition is allowed. FIR No. 105 dated 31.3.2015, under Section 363, 366-A IPC and Section 4 of the Act, registered at Police Station Kosli, District Rewari (Annexure P-1) and all the consequential proceedings, arising therefrom, are quashed.

**(SABINA)
JUDGE**

August 17, 2015
Gurpreet