

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

**Criminal Misc.No.M-3665 of 2015
Date of Decision: February 04, 2015**

Raj Kaur & Ors.

...Petitioners

Versus

State of Haryana & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Gurinder Singh Goraya, Advocate,
for the petitioners.

Naresh Kumar Sanghi, J.(Oral)

Prayer in this petition is for quashing of FIR No.30, dated 22.4.2014, for the offences punishable under Sections 120-B, 328, 376, 452 and 506, IPC and Section 4 of the Protection of Children from Sexual Offences Act, registered at Police Station, Jhansa, District Kurukshetra and the consequential proceedings arising therefrom on the basis of compromise.

Learned counsel submits that during pendency of the trial, respondent Nos.2 and 3 have sorted out their grievances and effected a compromise with the petitioners; and petitioner No.3, Bhagwant Singh @ Bhagti, is ready to solemnize the marriage with respondent No.2, prosecutrix (named concealed).

I have heard the learned counsel for the petitioners

and with his able assistance gone through the material available on record.

The allegations against the petitioners are that the prosecutrix was present at her house after attending the school then petitioner No.1, Raj Kaur, came to her(prosecutrix) house and took the prosecutrix to her house on the pretext that she had to prepare meal with her. Intoxicating cold drink was offered to her and thereafter, the prosecutrix became unconscious and after gaining consciousness, she saw that her under garment was smeared with blood and Bhagwant Singh @ Bhagti (petitioner No.3) was sitting by her side in a naked position. She then realized that petitioner No.3 had committed rape on her. When she complained the matter to Raj Kaur (petitioner No.1) then she (Raj Kaur) gave a slap on her (prosecutrix) face. The petitioner also showed her nude photographs and video film which was stored at the mobile of petitioner No.3 (Bhagwant Singh).

In the matter of **Gian Singh** vs. **State of Punjab & Anr.**, 2012(4) RCR(Criminal) 543, Hon'ble the Supreme Court 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."

In view of the above, no ground for quashing of the

impugned FIR is made out.

Dismissed.

February 04, 2015
seema

(Naresh Kumar Sanghi)
Judge