

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

Crl. Misc. M-2578 of 2016 (O&M)
Date of Decision: October 29, 2018

Angrej Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajeev D. Sharma, Advocate
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG Punjab.

Mr. Swaran Sandhu, Advocate for
Ms. Monika Jalota, Advocate
for respondent No.3.

JAISHREE THAKUR, J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.137 dated 29.08.2014 registered under Sections 362, 365, 366, 420 of Indian Penal Code at Police Station Shambhu, District Patiala (Annexure P/1) and all subsequent proceedings arising therefrom.

2. The aforesaid FIR has been registered on the statement of complainant/respondent No.2-Chanan Singh on the allegation that the petitioner has taken away his grand-daughter by alluring her.

3. Notice of motion has been issued in the matter, pursuant to which appearance has been caused on behalf of respondent No.3, the grand daughter of complainant-respondent No.2 as well as respondent-State.

4. Learned counsel for the petitioner herein would contend that the aforesaid FIR has been lodged against the petitioner merely on the basis of suspicion of complainant-respondent No.2 that the petitioner herein has abducted his grand-daughter. It is submitted that the grand-daughter was a major, as her date of birth is 26.04.1995. It is argued that there is an affidavit of the grand-daughter of respondent No.2 namely Gaganpreet Kaur dated 20.01.2016 stating that she was a major with the date of birth reflected as 26.04.1995. In the said affidavit, deponent had clearly stated that she left her house, as she was being pressurized by her family members to get married against her wishes and finding no alternative to the said pressure, she had left the house of her own will. The deponent had also stated that the allegations as set out against Angrej Singh are absolutely wrong.

5. Learned counsel appearing on behalf of respondent No.3, the grand-daughter of complainant-respondent No.2, endorses the argument of learned counsel for the petitioner.

6. Respondent No.3 has filed an affidavit in the court submitting that she would have no objection, if the said FIR is quashed by the High Court, in case, the petitioner herein also files an affidavit that he would not seek damages against the deponent and her family members.

7. Learned counsel appearing on behalf of the respondent-State, on instructions from the Investigating Officer, does not dispute the fact that complainant-respondent No.2 has since expired.

8. I have heard learned counsel for the parties and have perused the pleadings of the case along with affidavits filed during the proceedings pending in this court.

9. At the very outset, it is brought to the notice of the court that complainant-respondent No.2 himself has expired on 10.08.2016 and there are two affidavits available on the record, which would reflect that deponent namely the grand-daughter of the complainant had voluntarily left the parental home on account of the pressure that was being exercised upon her to solemnize marriage with a person, with whom she was not keen to do so. There is also an affidavit of the petitioner herein on record that he would not claim any damages, in case, the FIR is quashed.

10. In view of the fact that the complainant has since expired and there are affidavits available on the record to show that the offences as set out in the FIR are not maintainable, no useful purpose would be achieved, in case, the proceedings are allowed to continue.

11. In the case of **State of Haryana and others vs. Bhajan Lal and others, 1992 Supreme Court Cases (Cri) 426**, the Apex Court has reiterated the principle that the court can exercise its inherent jurisdiction of quashing a criminal proceeding only when the allegations made in the FIR/complaint do not disclose the commission of any offence and make out a case against the accused. In a latest pronouncement in the case of **Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others vs. State of Gujarat and another, (2017) 9 Supreme Court Cases 641**, while discussing the various decisions of the Apex Court, the broad principles which emerge from the precedents on the subject, have been summarized as follows :

“(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any

court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of [Section 320](#) of the Code of Criminal Procedure, 1973. The power to quash under [Section 482](#) is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under [Section 482](#), the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under [Section 482](#) and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as

murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and

(ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

12. Consequently, keeping in view the fact that the offences as set in the FIR are not made out against the petitioner herein and in view of the law laid down by the Hon'ble Supreme Court in **State of Haryana and others vs. Bhajan Lal and others** and **Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others vs. State of Gujarat and another (supra)** this petition is allowed and FIR No.137 dated 29.08.2014 registered under Sections 362, 365, 366, 420 of Indian Penal Code at Police Station Shambhu, District Patiala and all subsequent proceedings arising out of the same are quashed qua the petitioner herein.

13. However, while quashing the FIR in question, it is made clear that the petitioner herein has already suffered an affidavit that he would not claim damages and the terms of the affidavit be adhered to.

14. The petition stands allowed accordingly.

October 29, 2018

vijay saini

(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes/No