

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

Crl. Misc. M-20413 of 2020

Date of decision: 18.09.2020

213

Chand Ram

....Petitioner(s)

Versus

State of U.T., Chandigarh and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Naresh Kumar Chhokar, Advocate,
for the petitioner.

Mr. A.M. Punchhi, Advocate,
with Mr. Anupam Bansal, Advocate,
for respondent no. 1.

Mr. Ashok Kumar Bhana, Advocate,
for respondent no. 2-complainant.

(Proceedings are being conducted through video conferencing
as per instructions).

G.S.SANDHAWALIA, J.

The present petition has been filed under Section 482 Cr.P.C.
for quashing of FIR No. 134 dated 16.07.2020 under Section 354-A IPC,
P.S. Central Sector 17, Chandigarh on the basis of compromise dated
18.07.2020 (Annexure P-2), which is also supported by an affidavit of the
complainant.

As per the contents of the FIR, respondent no. 2 had levelled
allegations of sexual harassment against the petitioner while driving back
from the High Court. On the stoppage of the car at the red light on the
Kisan Bhawan Chowk, she had left his car and hired an auto rickshaw and
gone home and narrated the story to her sister on 15.07.2020. On
16.07.2020, the FIR was lodged on the basis of the complaint. In the FIR
she had stated that she did not want to get her medical check up done.

A perusal of the FIR would go on to show that her sister was already working in the High Court and had placed her with the petitioner on 13.07.2020, who is an Advocate in the High Court. She had reached the High Court on 14.07.2020, on which date, she had worked in the Library and the incident had happened thereafter. On the basis of the said FIR, the statement under Section 164 Cr.P.C. of the respondent no. 2 was also recorded before the Judicial Magistrate Ist Class, Chandigarh on 19.07.2020 wherein, she had retracted from the contents of the FIR got lodged by her. The said statement reads thus:-

“Q1. Are you suffering this statement at your own free will?

Ans. Yes.

Q 2. Is there any kind of pressure upon you?

Ans. No.

Q 3. What do you want to say?

Ans. I am working as Munshi in the chamber of Advocate Chand Ram Ola at High Court. I got registered this FIR under misconception. I do not want to take any action against him. He did not molest me regarding which I have got registered the FIR. I do not want any further action on this FIR.”

It is the case of the petitioner that a compromise as such was entered into on 18.07.2020 with the help of the Executive of the Bar Council of the Punjab and Haryana High Court Association, which has been appended as Annexure P-2 and, thus, apparently, respondent no. 2 had retracted from her earlier stand.

As per the terms of the compromise, there was some misunderstanding between the complainant and the petitioner and in lieu of the same, sum of Rs.1,50,000/- was to be paid to respondent no. 2 in three

installments. An affidavit of respondent no. 2 has also been filed in the same terms as such that she would have no objection if the FIR was quashed, which was part and parcel of the terms of compromise. As per the Adhaar Card, she is stated to be born on 12.04.1999 (Annexure P-4) and, therefore, is a major as such.

Counsel for the said complainant has also vouched for the terms of the compromise and the balance amount of Rs.50,000/-, which was payable, was also handed over to her by way of demand draft dated 15.09.2020.

The Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab and another, 2007 (3) RCR (Crl.) 1052*** has held that the power under Section 482 Cr.P.C. cannot be limited to matrimonial cases alone and this Court has wide powers to quash the proceedings even in non-compoundable proceedings notwithstanding the bar under Section 320 Cr.P.C. in order to prevent the abuse of law and to secure the ends of justice. Importance as such had been laid to the resolution of dispute by way of compromise between the two groups to give full effect to the same. It has further been held that the offences of murder and culpable homicide and where there are cases of involving clear cut allegations of rape and heinous offences like highway robbery, dacoity would remain non-compoundable and the Court would, as such, not quash such matters.

The Apex Court in ***Gian Singh vs. State of Punjab and another, 2012 (10) SCC 303***, a three-Judge Bench also examined the issue of quashing qua Sections 320 and 482 Cr.P.C. and has approved the view of the Full Bench and decided the reference accordingly since a clashing view as such had been taken by the other Benches of the Apex Court

regarding the powers under Section 482 Cr.P.C. Resultantly, it was held that the power of quashing while exercising the inherent powers by the High Court could not be limited in a straightjacket formula and no precise and inflexible guidelines could be provided. Where the victims had settled their dispute which was private in nature and where the possibility of conviction is remote and bleak, the continuation of the case would only amount to the abuse of process of law despite settlement and compromise and, thus, the jurisdiction of the High Courts was upheld to quash the criminal proceedings.

Resultantly, keeping in view the above, since respondent no. 2 has opted to settle the matter in lieu of the payment of Rs.1,50,000/- received by her and retracted from the contents of the FIR in her statement under Section 164 Cr.P.C., no useful purpose would be served as such in continuing with the proceedings in the FIR.

The abovesaid FIR is accordingly quashed and the present petition stands allowed.

18.09.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No