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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-7951-2021

Date of Decision: 05.04.2021

SUKHJIT KUMAR @ SONU

PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Kushagra Mahajan, Advocate for the petitioner.
Mr. Sidakmeet Singh Sandhu, AAG, Punjab.
Mr. M.S. Rana, Advocate for respondent No.2.

AVNEESH JHINGAN, J (Oral):

The matter is taken up for hearing through video conference due to COVID-19 situation.

This petition is for quashing of FIR No. 295, dated 27th September, 2020, under Sections 376 and 506 IPC (Section 328 IPC and Sections 67, 67-A of Information Technology Act, 2000 added later on) registered at Police Station Maqboolpura, District Police Commissionerate Amritsar and all consequential proceedings arising therefrom. The quashing is sought on the basis of compromise arrived at between the parties.

Following order was passed by this Court on 22nd February, 2021:-

“ *Notice of motion.*

Ms. Dimple Jain, AAG, Haryana and Mr. M.S. Rana, Advocate appearing on advance notice accept the same on behalf of respondents No. 1 and 2 respectively.

Learned counsel for the petitioner and respondent No.2

are ad idem that the matter has been compromised.

Learned counsel for respondent No.2 is not opposing the quashing of FIR.

Let the parties appear before Illaqa Magistrate/trial Court on 5th March, 2021 for recording their statements with regard to the compromise/settlement.

The trial court is directed to submit a report on or before the next date of hearing containing the following information:

- 1. Number of persons arrayed as accused in FIR;*
- 2. Whether accused is proclaimed offender; and*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

List on 5th April, 2021.”

The report dated 31st March, 2021 of Additional Sessions Judge, Fast Track Court, Amritsar is received. Relevant portion of the report is reproduced as under:-

“ After going through the statements given by complainant, accused persons and investigating officer in the Court, the following report as desired by the Hon'ble High Court is submitted:

- i. Only one person/accused is arrayed in this FIR.*
- ii. Accused is not proclaimed offender in the present case.*
- iii. Compromise between the parties is valid and genuine and it is voluntarily effected between the parties with their free consent and without any pressure, threat, coercion or undue influence from any quarter.”*

*The Supreme Court in **Parbatbhai Aahir @ Parbatbhai***

Bhimsinhbhai Karmur and others v. State of Gujarat and another, 2017

***AIR (SC) 4843** has expounded principles governing the exercise of powers*

under Section 482 of Cr.P.C. The relevant portion is reproduced as

under:-

“15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(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.”

(emphasis supplied)

In the present case, the allegations were that the complainant and the petitioner were in love affair. There were talks between the parents of both the sides for marriage. A physical relationship was made without the consent of complainant and the petitioner refused to marry. During the pendency of the dispute, the parties have compromised the matter. The parties have solemnized the marriage on 18th October, 2020. They have decided to make a new beginning in their life by patching up their differences. No useful purpose would be served by continuation with the

by the parties and their elders. To meet the ends of justice, the FIR mentioned above and all consequential proceedings are quashed.

The petition is allowed.

**[AVNEESH JHINGAN]
JUDGE**

5th April, 2021
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| 1. Whether speaking/ reasoned : | Yes |
| 2. Whether reportable : | Yes |