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

CRM-M-19244-2021

Date of Decision: 29.06.2021

Jatinder @ Jatindra**.. Petitioner****Vs.****State of U.T. Chandigarh and others****..Respondents****CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. S.L. Chander Shekhar, Advocate for the petitioner.

Mr. A.M. Punchhi, Public Prosecutor with
Mr. Anupam Bansal, Addl. P.P. for U.T. Chandigarh.

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Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 482 Cr.P.C for quashing of FIR No.172 dated 14.06.2019 (Annexure P-1) registered under Sections 376(3), 376(2)(N) and 376(2)(I) IPC, 1860 and Section 6 POSCO Act, 2012 at Police Station Sector 39, Chandigarh and subsequent proceedings arising therefrom on the basis of compromise dated 22.04.2021 (Annexure P-2).

The present FIR was registered on the statement of Neha d/o Vijay Kumar, aged 13 years, who stated that her cousin brother (Jitender) was residing at their home, who kept bad eye on her and in the month of April, he raped her, when her parents were sleeping in the adjoining room. Since then, she was raped number of times and was threatened by her cousin, who asked her not to tell this incident to anyone. On 10.06.2019, due to pain in her abdomen, she was taken to hospital by her parents and on examination, she was found to be carrying 13 weeks old pregnancy. When she was inquired about this pregnancy, she took the name of Pankaj Kumar s/o Ashok Kumar, as she was scared. But actually, her cousin Jitender was

responsible for her pregnancy. On these broad allegations, the present FIR has been registered.

Learned counsel for the petitioner refers to Annexure P-2 to contend that the compromise has been arrived at between the parties with the intervention of the respectables and the dispute has been amicably settled. According to him, the prosecution of the petitioner would be a futile exercise and prays for quashing of FIR.

On the other hand, learned State counsel assisted by HC Vijender Singh, has opposed the prayer on the ground that the offences committed are serious in nature and investigation is in progress. According to him, in such type of heinous crimes, compromise is meaningless and prays for dismissal of the petition.

After hearing learned counsel for the parties, this Court finds that the solitary ground of compromise raised in the petition is not worth acceptance. At this stage, it will be useful to refer the decision in “***The State of Madhya Pradesh Vs. Laxmi Narayan and others***”, 2019 AIR (SC) 1296, the Hon'ble Supreme Court has laid down the principles for quashing of the criminal proceedings in non-compoundable offences by exercising inherent powers under Section 482 Cr.P.C. The relevant portion of the judgment is extracted below:

“However, the High Court has not at all considered the fact that the offences alleged were non-compoundable offences as per Section 320 of the Cr.P.C., 1973 from the impugned judgment and order, it appears that the High Court has not at all considered the relevant facts and circumstances of the case, more particularly the seriousness of the offences and its social impact. From the impugned judgment and order passed by the High

*Court, it appears that the High Court has mechanically quashed the FIR, in exercise of its powers under Section 482 Cr.P.C., 1973 the High Court has not at all considered the distinction between a personal or private wrong and a social wrong and the social impact. As observed by this Court in the case of **State of Maharashtra v. Vikram Anantrai Doshi, 2014 (4) R.C.R (Criminal) 381: (2014) 15 SCC 29**, the Court's principal duty, while exercising the powers under Section 482 Cr.P.C., 1973 to quash the criminal proceedings, should be to scan the entire facts to find out the thrust of the allegations and the crux of the settlement. As observed, it is the experience of the Judge that comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence."*

In the case of **Gian Singh V. State of Punjab 2012(4) R.C.R. (Criminal) 543: (2012) 10 SCC 303**, the Apex Court has observed and held as under:

"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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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.”

From the aforesaid observations of Hon'ble the Apex Court, it is apparent that the offences with serious magnitude and gravity, having a serious impact on the society, have been excluded from the purview of powers to be exercised under Section 482 Cr.P.C. As per allegations in the FIR, the petitioner forcibly entered into physical relations with the victim, who became pregnant also. Therefore, the compromise relied upon by the petitioner is rejected.

Considering the seriousness of the offences, but without expressing any opinion on the merits of the the prosecution case, this Court does not find any ground to exercise inherent powers under Section 482 Cr.P.C. for quashing of the FIR on the sole ground of compromise.

Petition is dismissed.

29.06.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No