

**129 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

CRM-M-33822-2021
Decided on : 23.08.2021

Ashu Garg & ors.

..... Petitioners

Versus

State of Punjab & ors.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Anshuman Chopra, Advocate
for the petitioners.

Ms. Bhavna Gupta, DAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been filed under Section 482 Cr.PC for quashing FIR No.397 dated 19.09.2020 under Sections 354, 323, 506 and 34 IPC and Section 10 of POCSO Act, 2012 registered at Police Station City Barnala on the basis of compromise dated 12.07.2021.

Learned counsel for the petitioners *inter alia* contends that on account of a family dispute, the FIR in question came to be registered against the petitioners, however, subsequently vide compromise dated 12.07.2021 (Annexure P-2) the matter between the parties stands amicably settled. Hence, in the wake of the compromise so arrived at between the parties the FIR in question be quashed as continuation of criminal proceedings would be nothing but an abuse of the process of law.

Mr. Abdul Azis, Advocate has put in appearance on behalf of respondents No.2 and 3 and admits the factum of compromise.

Learned State counsel has however opposed the prayer of learned counsel for the petitioner and apprised the Court that charges stand framed in the case in hand.

Heard and perused the material available on record.

A perusal of the FIR in question prima facie reveals that there are serious allegations levelled against all the petitioners and petitioner No.1 in particular of indulging in inappropriate behaviour with the victim, who is not only his stepdaughter but also a minor, aged 15 years.

No doubt as per the compromise Annexure P-2, the matter has been amicably settled between the parties for “keeping good health relations in the future and for living peacefully” however the inherent powers of this Court under Section 482 Cr.PC would not prevail over the statutory bar under Section 320(9) Cr.PC as it categorically provides in no uncertain terms that there cannot be any contravention of the said Section. Moreover, it cannot be over-emphasized that all the offences under the POCSO Act are non-compoundable.

In the case in hand, specific allegations regarding sexual assault have been recorded in the FIR in question and thus, this Court cannot overlook the fact that a minor was subjected to alleged sexual assault at the hands of her stepfather for 7/8 months. These incriminating circumstances prima facie portray that there had been a fundamental breach of trust between the stepfather and his minor daughter. Hence, nothing could be more disturbing than the act committed by the petitioner. Thus, in the instant case after taking into account all the facts and circumstances, grant of the relief as prayed for, is declined.

Accordingly, the present petition stands dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

23.08.2021
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No