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

CRM-M-50453-2021

Date of Decision: December 02, 2021

Vinod @ Manoj and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.V.P.Sangwan, Advocate
for the petitioners.

Mr.B.S.Virk, DAG, Haryana.

Ms.Anu Bala Garg, Advocate
for respondent Nos.2 and 3.

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RAJESH BHARDWAJ, J.

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.0354, dated 04.09.2018, under Section 346 IPC (Sections 363, 366, 376(2)(n) and 452 IPC added later on), registered at Police Station Badhra, District Charkhi Dadri and all the consequential proceedings arising therefrom on the basis of compromise dated 05.11.2021, Annexure P-2.

As per the factual matrix of the case, the FIR in question was registered by respondent No.3 wherein it was alleged that his wife had left the house on 30.05.2018 and he could not find her. The prayer was made to trace her and take the action against the culprits.

Investigation conducted, challan was presented and the trial

Court is seized of the matter.

Learned counsel for the petitioners has vehemently contended that the parties have resolved their dispute and arrived at a compromise, which is placed on record as Annexure P-2. He further submits that the divorce petition has already been filed by respondent Nos.2 and 3 for dissolving their marriage and the same is pending adjudication. He submits that in pursuance to the same, the prosecution of the petitioners is totally an abuse of the process of the Court and hence, the same be quashed on the basis of the compromise arrived at between the parties. He has relied upon the judicial precedents of this Court in **Sewa Singh vs State of Punjab and another** passed in CRM-M-13715 of 2010, decided on 03.08.2010, **Talwinder Singh @ Laddi and another vs State of Punjab and another** passed in CRM-M-10505 of 2008, decided on 14.05.2008 and **Surinder Kamboj and others vs State of Punjab and another** passed in CRM-37770-M-2003, decided on 11.10.2007.

On the other hand, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioners. He submits that respondent No.2 is the wife of respondent No.3 and only divorce petition has been filed but the marriage still subsists between both of them, as the divorce petition is still pending adjudication. He further submits that in pursuance to the FIR, the investigation is carried out wherein the allegations against the petitioners were found to have been substantiated. He further submits that now the trial Court is seized of the matter and all the prosecution witnesses have already been examined and the case is fixed for examining the defence evidence and hence, the trial is virtually at the fag end. He further submits that as the offences in the FIR are heinous in nature and non-compoundable, the compromise arrived at between the parties has

no legal sanctity and thus, the present petition be dismissed.

I have heard learned counsel for the parties and have perused the record.

From the facts on record, it is apparent that FIR has been lodged by respondent No.3, who is husband of respondent No.2. Admittedly, the divorce petition is pending adjudication and thus, the marriage between respondent Nos.2 and 3 still subsists. Further as per the submissions made by the State counsel, all the prosecution witnesses have already been examined by the trial Court and the case is ripe for conclusion. Even otherwise, the offences are of heinous in nature and thus, non-compoundable and hence in the facts and circumstances, the compromise arrived at between the parties is of no consequence. As per the judicial precedent in the case of **Gian Singh vs State of Punjab and another** (2012) 10 Supreme Court Cases 303, the High Court has the power under Section 482 Cr.P.C. to quash the FIR but not in the cases of heinous offences. Para 61 of the judgment reads as under:-

“61. 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 F.I.R 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 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. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice,

it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

The present case do not qualify on the parameters laid down by the Full Bench of the Hon'ble Apex Court and hence, the petition being devoid of any merit is hereby dismissed.

December 02, 2021
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(RAJESH BHARDWAJ)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No