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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52074-2021

Date of Decision: December 14, 2021

Anamika Rani and another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Rajnish K.Gupta, Advocate
for the petitioners.

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RAJESH BHARDWAJ, J.

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.260, dated 15.07.2019, under Sections 376(2)(n), 323, 506, 509, 34 IPC and Section 67-A of the Information and Technology Act, 2000 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989, registered at Police Station Old Sabzi Mandi, Rohtak, District Rohtak and all the subsequent proceedings arising therefrom on the basis of compromise dated 09.11.2021.

As per the facts of the case, the present FIR was lodged by the prosecutrix (name with-held) wherein the allegations of cheating on the pretext of making the prosecutrix a dancer in the dance bar, for keeping her away, blackmailing her by showing nude photographs and without solemnizing marriage with her committing rape with the prosecutrix were

levelled. It was also alleged that she became pregnant many times and the child was killed. The prosecutrix alleged that she came in contact with petitioner No-2-Shekhar Khanna on facebook who claimed himself as Choreographer Director. Shekhar Khanna allured her and took her to the house of his friend and there he committed rape with her. He clicked nude photos and made videos of the prosecutrix. Petitioner No.1, who is none other than the wife of petitioner No.2 also joined hands with her husband in the commission of offence. The FIR was lodged and request was made to take action.

After investigation earlier a cancellation was recommended by the Investigating Agency, however, on subsequent application filed, the case was further investigated and challan was filed. Now the petitioners have approached this Court for quashing of the present FIR on the grounds that they have entered into an amicable settlement, thus, the present FIR be quashed.

Counsel for the petitioners vehemently contends that the FIR lodged is nothing but an abuse of the process of the Court. He has submitted that Investigating Agency had recommended cancellation after investigation, however, for the reasons best known to them, thereafter the opinion was changed and challan was presented. He submits that on similar set of allegations, the prosecutrix has lodged another FIR No.119, dated 04.03.2020, under Sections 376, 509, 323, 506, 377 IPC, registered at Police Station Farsh Bazar, District Shahdara, Delhi. He has relied upon **Dr.Dhruvaram Murlidhar Sonar vs State of Maharashtra and others** 2019(1) RCR (Criminal) 674, **Vineet Kumar and others vs State of U.P.**

2003(2) RCR (Criminal) 99, Prashant Bhartiya vs State of Delhi and another 2021(3) RCR (Criminal) 714 and R.S.Bharathi vs The State rep.by Assistant Commissioner of Police and another 2021(3) RCR (Criminal) 582 and has prayed that in view of the same, the FIR be quashed on the basis of compromise arrived at.

I have heard learned counsel for the petitioner and perused the record as well.

There is no gainsaying that the allegations made in the FIR are very specific against both the petitioners and pertains to heinous offence. No doubt the petitioners and the prosecutrix are of the age of majority, however, the parameters laid down by the Hon'ble Apex Court for entertaining the prayer for invoking the jurisdiction under Section 482 Cr.P.C. are very well defined.

The present case pertains to the heinous offence and veracity of factual disputes can only be established after leading the evidence before the trial Court. I am supported by the judgment in Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303 wherein the Hon'ble Apex Court has settled the law and laid down that in what type of cases, the compromise arrived at should be entertained by the High Court by invoking jurisdiction under Section 482 Cr.P.C. The Hon'ble Supreme Court in Gian Singh's case (supra) dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335. Para 61 of the judgment in Gian Singh's case (supra), 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 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 offender in relation to the offences under special statutes like 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 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 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.”

Certainly the facts of the present case do not qualify on the parameters laid down by the Hon'ble Apex Court. The judicial precedents relied upon by the petitioners are distinguishable.

In view of the same, I am unable to agree with the submissions made by the counsel for the petitioners and hence decline to invoke the jurisdiction under Section 482 Cr.P.C. in favour of the petitioners.

Resultantly, the present petition being devoid of any merit is hereby dismissed.

However, the petitioners are at liberty to avail the alternative remedy for redressal of their grievances before the trial Court.

December 14, 2021
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(RAJESH BHARDWAJ)
JUDGE

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

Yes/No
Yes/No