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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4500-2022

Date of Decision: February 03, 2022

Mohit Singh @ Mohit @ Fozi

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Arihant Goyal, Advocate,
for the petitioner.

.....

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.

The instant petition filed under Section 482 Cr.P.C. is for quashing of the FIR No.0156, dated 26.08.2020, under Section 6 of the Protection of Children from Sexual Offence Act, 2012 and Sections 323, 363, 366-A, 506 IPC, registered at Police Station Narwana City, District Jind and further to stay the consequential proceedings arising therefrom on the basis of compromise deed dated 30.10.2021, Annexure P-2.

As per the facts of the present case, the FIR was lodged by mother of the victim, namely, Rajni. It was alleged that the accused-Mohit, who is resident of Ismailpur has enticed away her minor daughter. A complaint was submitted on 18.06.2020. Thereafter, a panchayat was convened and efforts were made for amicable settlement. It was agreed that

the marriage of the victim with the petitioner will be solemnized on her attaining the age of 18 years. However, one month thereafter her minor daughter was thrown out of the matrimonial home by giving beatings. The FIR was lodged to take the legal action against the accused. The investigation has been completed and the trial Court is seized of the matter.

Counsel for the petitioner has vehemently contends that the present FIR is nothing but an outcome of the misunderstanding between the two families. He submits that no offence, as alleged, is made out against the petitioner. He has submitted that both the parties realised their faults and have arrived at a settlement and decided not to pursue the present FIR. The alleged compromise has been placed on record as Annexure P-2. He submits that as the matter has been compromised, the FIR be quashed. He has relied upon the certain judicial precedents and submitted that even if the offences are non-compoundable, the High Court has the power under Section 482 Cr.P.C. to quash the same. He submits that the prosecution of the petitioner is an abuse of the process of the Court, hence, this Court should exercise its inherent jurisdiction under Section 482 Cr.P.C. in favour of the petitioner.

Heard.

From the facts of the case, it is apparent that the victim in this case is a minor. The offences are under Indian Penal Code and under Section 6 of the POCSO Act as well. There is no dispute regarding the judicial precedents relied upon by the petitioner, however, in the facts and circumstances of the case, the same are distinguishable.

Hon'ble Supreme Court in Gian Singh vs State of Punjab and

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 **Gian Singh's** case 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.”

From the bare perusal of the FIR in question, it is apparent that the offence alleged are pertaining to a minor which are heinous in nature. In view of the parameters laid down by the Hon'ble Apex Court in Gian Singh's case (supra), the case in hand does not fall within the scope of consideration for quashing the FIR on the basis of compromise. The case has been investigated, the challan has been presented and the trial Court is seized of the matter.

Weighing the facts and circumstances of the present case on the anvil of the law settled by the Hon'ble Supreme Court, this Court finds that the case in hand fails to qualify the parameters laid down in the above-said

However, the parties are at liberty to avail their remedy in accordance with law.

February 03, 2022
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |