

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(259)

CRM-M-5592-2021

Date of Decision: 20.04.2022

Suresh Kumar

--Petitioner

Versus

State of Haryana & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Amit Kumar Goyal, Advocate for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

Mr. Ashish Rana, Advocate for respondents no.2 & 3.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 482 Cr.P.C praying for quashing of FIR No.162 dated 29.12.2020 under Section 354 (A) IPC and Section 12 of POCSO Act, registered at Police Station, Bapoli, District Panipat and all the subsequent proceedings arising therefrom on the basis of the compromise (Annexure P-2).

As per facts of the case, present FIR was lodged by the mother of the victim. The sum and substance of the allegations in the FIR is that husband of the complainant was working as a Mason. On 28.12.2020 her daughter i.e. victim (name concealed) aged about 13 ½ years went to the Karyana shop of Suresh Kumar i.e. the present petitioner to take some eatables. On her return the complainant found that her daughter/victim was scared and on her asking she told that the shopkeeper uncle i.e. the petitioner took his private part out after opening zip of his pent and asked her to hold and showed the same. She got scared and came outside. As the husband of the complainant was not at home, on his return, she told the incident to her husband and thereafter the present FIR was lodged for taking

legal action against the culprit.

After registration of FIR the investigation commenced. The petitioner has approached this Court praying for quashing of the FIR in question on the basis of compromise arrived at between the parties.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present FIR. He submits that the petitioner is elderly person aged about 50 years, whereas victim is about 13 ½ years of age. The allegations made in the FIR can never be imagined to be true. He submits that with the intervention of the respectables the matter has now been settled and the parties have amicably settled the dispute and decided not to pursue the present FIR. This Court referred the parties for recording of their statements for the verification of the compromise arrived at and the statements of the parties have already been recorded, wherein the compromise has been found to be genuine. Counsel submits that in the facts and circumstances of the case, prosecution of the petitioner would be nothing but an abuse of the process of law and hence the FIR in question deserves to be quashed on the basis of the compromise arrived at. Counsel has relied upon the judgements of *State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335* and *Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303*.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the victim in the present case is 13 ½ years of age. The allegations against the petitioner are serious and no compromise can be arrived at. He submits that in the facts and circumstances of the case, present petition deserves to be dismissed.

Learned counsel appearing for respondents no.2 and 3 has also acknowledged the factum of compromise arrived at between the parties.

I have heard learned counsel for the petitioner at length and have gone through the record carefully.

Though, the parties have entered into a compromise as the same has been acknowledged by counsel appearing for complainant side as well, however, the case pertains to the offence under the POCSO Act. The victim in the case is 13 ½ years of age and is a minor. The compromise arrived at between the parties on behalf of the minor would not be legally sustainable. The Hon'ble Supreme Court in cases of *Bhajan Lal* and *Gian Singh* (supra) has specifically laid down the guidelines for exercising the power under Section 482 Cr.P.C for quashing of the FIR on the basis of compromise arrived at between the parties. It has been specifically held that though the High Court has the power under Section 482 Cr.P.C for quashing of FIR even in the non-compoundable offences, however, the power should not be exercised in heinous offences. The present case falls in the category of heinous offence.

Weighing the facts and circumstances of the case on the anvil of the law settled by Hon'ble Supreme Court, this Court finds no legal sanctity in the compromise arrived at between the parties. The case in hand does not qualify the parameters laid down by Hon'ble Supreme Court for exercising the power under Section 482 Cr.P.C.

The petition being devoid of any merit is, accordingly, dismissed. However, the parties are at liberty to avail the alternate remedies as available to them in accordance with law.

(RAJESH BHARDWAJ)
JUDGE

20.04.2022

lucky

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No