

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

CRM-M-12687-2018

Date of decision: 11.05.2022

Gaya Parsad Giri

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Namit Khurana, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Manoj Pundir, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

This is a petition seeking quashing of FIR bearing No.484 dated 20.12.2017 registered for offences punishable under Sections 8 & 10 (added later on) of POCSO Act, 2012 and Section 506 of IPC at Police Station Farakpur, District Yamuna Nagar (Annexure P-1) alongwith all consequential proceedings arising therefrom on the basis of compromise deed dated 20.03.2018 appended with the petition as Annexure P-2.

2. On 26.03.2018, the following order was passed:-

“This is a petition for quashing of FIR on the basis that a compromise has been entered into between the parties.

Notice of motion.

Mr. P.P. Chahar, learned DAG, Haryana accepts notice on behalf of respondent-State. Learned

counsel for the petitioner undertakes to supply adequate number of copies of the petition to the State counsel during the course of the day failing which no action is called for.

Mr. Manoj Kumar Pundir, Advocate, puts in appearance and files power of attorney on behalf of respondent No.2, who admits that the compromise between the parties has been effected.

Now the parties are directed to appear before the learned trial Court/Illaq Magistrate on 30.03.2018 or any other date convenient to the Court to get recorded their statements regarding compromise and after recording their statements, learned trial Court is directed to send the report regarding the genuineness of compromise and also to intimate whether any P.O. proceedings are pending against any of the party on or before the date fixed i.e. 25.04.2018.

A copy of this order be sent to learned trial Court, through fax, for compliance.”

3. Pursuant thereto, report of the trial Court has been received, wherein it has reported:-

“ XX XX XX XXX

It is a case where parents namely Shiv Prakash Bali and Kusum Bali have entered into a compromise with the accused and his family members but there is nothing in their statements, as to, on what terms and conditions, they had settled the matter on child victim's behalf who had undergone a traumatic experience and felt embarrassment while narrating

the said incident to the police and the Court. Nothing is apparent from the record to opine that the pain and suffering of the child victim has ended or that she mistook the affair in question.

Keeping in view the answers given by the child victim in a very natural manner, this Court is of the view that there is pressure of her parents upon her, **and the genuine consent of the child victim**, aged twelve years, at present studying in seventh class, **is not there**. Under the law, in the matter of child sexual assault, the proceedings are to be dealt with considerable sensitivity. **Such a compromise** entered into by the victim's parents on her behalf with respect to the alleged sexual assault upon her, at the hands of accused Gaya Prasad, aged 72 years, a head of Religious institution/Mandir, **is highly unacceptable and does not appear to be genuine**.

There is only one accused namely Gaya Parsad Giri, who is facing trial in the present FIR bearing No. 484 dated 20.12.2017, Police Station Farakpur, District Yamuna Nagar and as such there is no P.O. proceeding pending against any party in this case.

Trial is at an advanced stage. Only three witnesses have remained to be examined.”

4. Learned State counsel further submits that all the prosecution witnesses stand examined and the matter is now fixed for tomorrow i.e. 12.05.2022.

5. The prosecutrix was of tender age of 13 years at the time of occurrence.

6. Keeping in view the fact that the trial is at fag end and the offences for which the petitioner has been booked under, cannot be subject matter of compromise. Accordingly, the present petition is dismissed.

7. Needless to say that nothing has been observed on the merits of the case. Trial Court shall pass the judgment in trial without being influenced by the fact of the present petition having been dismissed by this Court.

(PANKAJ JAIN)
JUDGE

11.05.2022

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Whether speaking/reasoned : Yes

Whether Reportable : No