

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

CRM-M-26217-2021

Date of decision : 07.02.2022

Sanjeev Kumar

..... Petitioner

versus

Union Territory, Chandigarh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Shvetanshu Goel, Advocate
for the petitioner.

Mr. Y.S. Rathore, Addl. PP, UT Chandigarh.

Ms. Bhavi Kapur, Advocate
for the complainant.

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 petitioner has approached this Court praying for quashing of FIR No.0035 dated 03.03.2021, under Sections 363, 366 (Section 366 added later on) of the IPC, registered at Police Station Sector 36, Chandigarh, on the basis of compromise.

It has been contended by counsel for the petitioner that the parties have amicably settled the dispute and they have entered into a compromise (Annexure P-1). In pursuance to the same, it is further submitted that as they have already settled the dispute, their prosecution would be an abuse of the process of the Court and hence, the FIR should be quashed.

Vide order dated 12.07.2021, the parties were directed to appear before the Illaqa Magistrate/Duty Magistrate for recording of their statements where they appeared and recorded their statements. The report dated 26.08.2021 is sent by the learned Judicial Magistrate Ist Class, Chandigarh.

The FIR in question was registered by complainant Krishna Devi wherein, it was alleged that she and her daughter victim (name concealed) were doing cleaning work in different houses. She sent her daughter (victim) on 27.02.2021 at House no.786, Sector-43-A whereas, she went for the cleaning work to the adjoining house. When she came back and asked the owner of House No.786 namely, Jaswant Singh, he expressed his ignorance about the whereabouts of her daughter. She searched her daughter but failed to trace out her. It was alleged that her daughter is 16 years 4 months of age and some unknown person had taken her away by alluring her. The request was made to take legal action against the culprits. In pursuance to the same, investigation commenced and challan was filed and charges were framed.

Learned counsel for the petitioner submits that petitioner is married with respondent No.3 i.e. the victim on 03.03.2021 and thereafter, they went before learned Additional Sessions Judge, Amritsar for seeking protection of their life and liberty. He also submitted that in the statement under Section 164 Cr.P.C, the victim has not levelled any allegations of abduction. He submitted that as the FIR in question was falsely registered at the behest of the parents of respondent No.3, the prosecution of the petitioner is totally an abuse of the process of the Court and hence, the same be quashed.

On the other hand, learned State counsel has submitted that the prosecutrix in this case is minor. He submits that even if it is taken to be the case of consent then also the victim being minor, her consent has no legal sanctity. He submits that the allegations against the petitioner are serious in nature and in view of the law settled, the case does not fall in the category where this Court can invoke its inherent jurisdiction under Section 482 Cr.P.C. for quashing of the FIR on the basis of compromise arrived at between the parties. He has submitted that trial Court is already seized of the matter wherein the statements of four material witnesses have already been recorded and they were declared hostile. He submits that the matter in question should be adjudicated on the basis of the evidence to be led before the trial Court itself. Hence, the petition be dismissed.

I have heard counsel for the parties and perused the records.

Admittedly, the victim in the case is a minor. Even if it is assumed by this Court that petitioner and respondent No.3 are duly married and their relationship is consensual, then also this Court cannot ignore the fact that the victim is a minor. The allegations in the FIR pertain to a heinous offence. As per the submissions made by the State counsel, the trial Court is already seized of the matter wherein the statements of the four material witnesses have already been recorded.

The Hon'ble Supreme Court in Gian Singh Vs. State of Punjab and another, (2012) 10 SCC 303 has held 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 a serious impact on society. Similarly, any compromise between the victim and the 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 predominatingly 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 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.”

Keeping in view the facts and circumstances of the present case and in view of the law settled by the Hon'ble Supreme Court, this Court finds that the present case does not qualify for invoking its inherent jurisdiction under Section 482 Cr.P.C. in favour of the petitioner. The petition, being devoid of any merits, is hereby dismissed. However, the petitioner is at liberty to avail the remedies as available to him under the law.

(RAJESH BHARDWAJ)
JUDGE

07.02.2022
m. sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No