

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(116)

CRM-M-36565-2021
Date of Decision: 15.2.2022

Mukhtiar Singh

--Petitioner

Versus

State of Punjab & another

--Respondents

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

Present:- Ms. Vartika Gupta, Advocate for
Mr. Lupil Gupta, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

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.418 dated 17.12.2020 under Section 376 IPC and Section 4 of POCSO Act, registered at Police Station, Sadar Fazilka and all the subsequent proceedings arising therefrom on the basis of the compromise dated 16.7.2021(Annexure P-3).

As per facts of the case, the present FIR was lodged by the prosecutrix (name concealed), wherein it was alleged that she was aged about 16 years and was a student of 11th class. The house of Mukhtiar Singh i.e. petitioner was near to her house. He used to talk to her on mobile and wanted to marry her. She told him that she is a minor but Mukhtiar Singh used to pressurize her for the marriage. On 6.12.2020 at about 6.30 PM when she went to Gurudwara of the village Mukhtiar Singh met her there and forcibly took her to his house. Thereafter he bolted the door and started doing wrong activities with her. Despite her resistance he committed rape upon her. Out of fear she did not raise alarm. Mukhtiar Singh

threatened her that in case she did not marry him he would defame her in the village. She disclosed everything to her parents, who got her admitted in Civil Hospital, Fazilka. The matter was reported to the police and a request was made to take legal action against the culprit.

Learned counsel for the petitioner has vehemently contended that present FIR is nothing but an abuse of the process of law. He submits that by intervention of the respectables, the parties have resolved their dispute and they do not want to prosecute the petitioner and hence the present FIR may be quashed. Counsel has relied upon various judicial precedents in ***Narinder Singh and others Versus State of Punjab and another, 2014 (6) SCC 466***; ***B.S.Joshi and others vs State of Haryana and another (2003) 4 Supreme Court Cases 675*** followed by this Court in Full Bench case of ***Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052***.

I have heard learned counsel for the petitioner at length and have gone through the records made available carefully.

There is no dispute regarding the judicial precedents relied upon by counsel for the petitioner, however, the Hon'ble Supreme Court in ***Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303*** has clearly held that court should not invoke the inherent jurisdiction under Section 482 Cr.P.C in heinous offences and held as under:-

“61. The position that emerges from the above discussion can be summarized 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.”

Applying the parameters laid down by Hon'ble Supreme Court, I find that the present case does not qualify the parameters for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C. The petition being devoid of any merit, is dismissed.

(RAJESH BHARDWAJ)
JUDGE

15.2.2022

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