

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

CRM-M-41588-2021
Date of Decision: 8.2.2022

Surender

..... Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Savita Rana, 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.75, dated 3.6.2021, under Sections 67(a) IT Act, 2008, 376(2)(n), 385, 500, 506, 509 IPC registered at Police Station Women, District Karnal and further consequential proceedings arising therefrom on the basis of Compromise dated 30.7.2021 (Annexure P-1).

As per the facts of the case, the present FIR was lodged by the prosecutrix (name concealed). It was alleged that about 2-3 years ago, accused Surender i.e. the petitioner made her video and on the basis of the same, forcible relations were made by him with her and when she objected, he threatened her on the pretext of making her videos viral on the internet and defame her in the society. On 2.6.2021 at about 7:00 pm, the accused sent some indecent message and video on his brother's phone, mother's phone and other numbers. She deleted the video out of fear but saved the messages. She was compelled by him for making sexual relations with him

and in case of denial threatened to kill her children. Request was made to take legal action against the accused for forcibly making relations, blackmailing and threatening to kill her children.

Learned counsel for the petitioner has vehemently contended that the present FIR was lodged by the complainant on some misunderstanding just to pressurize the petitioner to keep her with him. However, now with the intervention of the respectables, the matter has been compromised and hence, the prosecution of the petitioner in the same would be an abuse to the process of the Court. He has relied upon the judgments of the Hon'ble Supreme Court in B.S. Joshi and others vs. State of Haryana and another, (2003)4 SCC 675 and Kulwinder Singh Vs. State of Punjab and another, 2007(3) RCR (Cr.)1052 and submitted that the FIR in question be quashed.

Heard.

A bare perusal of the FIR would show that there are specific serious allegations against the petitioner. The offences alleged against the petitioner do fall in the category of heinous offence. During the course of arguments, the Court has been apprised that the matter is still under investigation. There is no dispute regarding the judicial precedents (supra) relied upon by learned counsel for the petitioner, however, in the facts and circumstances of the case these are distinguishable. Rather the Hon'ble Supreme Court in Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303 further dealt with the issue and the 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 the judgment 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 a 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 law settled by Hon'ble the Supreme Court to the facts and circumstances of the case, it is apparent that the case falls in the category of heinous offence. Further, the matter is still under investigation. Weighing the facts and circumstances of the case on the anvil of the law settled, this Court finds that the case in hand do not qualify for invoking the inherent jurisdiction under Section 482 Cr.P.C. in favour of the petitioner. The petition being devoid of any merit, is hereby dismissed.

However, the parties are at liberty to avail their remedies as available to them under law.

8.2.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No