

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-4685-2023 (O&M)

Date of order: 27.07.2023

Tarun Kumar & Another

.....Petitioner(s)

Vs.

State of Haryana & Another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTAPresent:- Mr. G.C. Shahpuri, Advocate
for the petitioners.

Ms. Deep Shikha Chauhan, AAG Haryana.

Ms. Meenakshi Bali, Advocate
for the complainant.

Nidhi Gupta, J.

The prayer in this petition is for quashing of FIR No.363 dated 23.07.2022 (Annexure **P-1**) under Sections 354-A, 363, 366 and 34 IPC and Section 8 of the POCSO Act, 2002 registered at Police Station Model Town Rewari, District Rewari and all consequential proceedings arising therefrom on the basis of compromise dated 28.12.2022 (Annexure P-2) arrived at between the parties.

Vide order dated 09.02.2023 this Court had directed the parties to appear before Illaqa Magistrate for getting their statements recorded in terms of certain parameters given in the aforesaid order dated 09.02.2023 with regard to the compromise dated 28.12.2022 (Annexure P-2), wherein the victim, being minor, aged 16 years, is represented through

her father, Sh. Satya Narayan (whose statement was recorded before the Illaqa Magistrate, on behalf of the victim).

In terms of the order dated 09.02.2023 passed by this Court parties have appeared before the Court of Ms. Rupa, Judicial Magistrate, 1st Class, Rewari and as per her report dated 13.04.2023 submitted to this Court, both the parties have got recorded their respective statements in Court.

A perusal of the above said report would show that the petitioners and respondent No.2 have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned State Counsel very fairly points out that the victim in the present case is 16 years old and FIR is registered under Sections 354-A, 363, 366 and 34 IPC and Section 8 of the POCSO Act and therefore, the same cannot be quashed on the basis of compromise.

Learned counsel for the petitioners relies upon judgments of this Court in **“Vikrant Vs. State of Haryana & Others” CRM-M-263-2022** and **“Jatinder Kumar Vs. State of Punjab & Another” CRM-M-27220-2020**, to submit that compromise quashing of FIR even in POCSO cases is permitted on the basis of compromise.

Learned counsel for respondent No.2 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the two parties.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the Illaqa Magistrate, this Court finds that the matter has been amicably settled between the petitioners and the complainant. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

As per the Full Bench judgment of this Court in **“Kulwinder Singh and others Vs State of Punjab”, 2007 (3) RCR (Criminal) 1052**, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the opinion that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble Apex Court in the case of **“Gian Singh Vs. State of Punjab and another”, 2012 (4) RCR (Criminal) 543**, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment is reproduced hereinbelow:-

“57. 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 view of what has been discussed hereinabove, this petition is allowed and FIR No.363 dated 23.07.2022 (Annexure **P-1**) under Sections 354-A, 363, 366 and 34 IPC and Section 8 of the POCSO Act, 2002 registered at Police Station Model Town Rewari, District Rewari along with all other consequential proceedings arising therefrom on the basis of compromise, are ordered to be quashed qua the petitioners.

Petition stands disposed of.

27.07.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No