

126

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11030-2023

Date of Decision:02.06.2023

ANKUR GUPTA

..... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Samir Rathaur, Advocate and
Mr. Shivam Kaushik, Advocate alongwith
the petitioner.

Ms. Dimple Jain, DAG, Haryana.

Mr. Pulkit Dhanda, Advocate alongwith
the complainant.

JAGMOHAN BANSAL, J. (Oral)

1. On 20.03.2023, the following order was passed:

“The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of FIR No.41 dated 03.04.2021 under Section 376(2)N, 354C, 506 IPC registered at Police Station Women Sector-51, Gurugram and final report under Section 173(2) Cr.P.C.

Learned Senior counsel for the petitioner submits that the petitioner and the prosecutrix had been in a relationship since their students' days, which stands reflected and duly substantiated from the whatsapp chat between both of them (annexed as Annexure P-2). In particular, he has referred to whatsapp text messages between them of 7th March' 2021. He has submitted that these messages were exchanged between the prosecutrix and petitioner after the meeting on 7th March' 2021 between them and their parents

at Panchkula. It has been submitted by the learned senior counsel for the petitioner that in the whatsapp text messages the prosecutrix had admitted that the petitioner had not blackmailed her nor extended threats to her. He further contended that had the prosecutrix been black mailed or threatened as alleged, she would not have been continuously texting him even after 7th March, 2021. He further contends that on account of the petitioner and the prosecutrix belonging to different castes, the family of the prosecutrix was averse to their relationship and marriage as a result of which the prosecutrix severed her relations with the petitioner.

He also draws the attention of this Court to challan (page 303) to contend that the Investigating Officer has reproduced the entire FIR in the challan and there is no finding except to say that the petitioner has refused to marry with the victim.

*In support of his contention, learned counsel relies upon the judgment of Hon'ble Supreme Court in **Sonu @ Subhash Kumar vs. State of Uttar Pradesh and another, 2021 SCC Online SC 181 and Naim Ahamed vs. State (NCT of Delhi), 2023 Live Law (SC) 66.***

Notice of motion for 10.05.2023.

Notice re: stay as well.”

2. The petitioner and complainant are present in Court and they have been identified by their respective counsel. The agreement executed between the parties alongwith their identity proof is taken on record. Registry is directed to tag the same at the appropriate place.

3. Learned counsel for the parties are *ad idem* that both the parties have amicably settled their disputes. They have executed a compromise dated 02.06.2023. In view of the compromise, complainant has no objection, if impugned FIR is quashed. She does not want to pursue the present FIR.

4. Learned State counsel on instruction from Investigating

Officer does not dispute the factual position.

5. Relying upon its earlier judgments in 'Gian Singh Vs. State of Punjab and others, (2012) 10 SCC 303' and 'The State of Madhya Pradesh Vs. Laxmi Narayan and others (2019) 5 SCC 688', a two Judge Bench of the Hon'ble Supreme Court in 'Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC online SC 834' while dealing with power of High Court under Section 482 of Cr.P.C. to quash non-compoundable offences on the basis of compromise between the disputing parties has held:

“11. True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under [Section 320 Cr.P.C.](#) Any such attempt by the court would amount to alteration, addition and modification of [Section 320 Cr.P.C.](#), which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of [Section 320 Cr.P.C.](#), which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of [Section 320 Cr.P.C.](#) is not an embargo against invoking inherent powers by the High Court vested in it under [Section 482 Cr.P.C.](#) The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press [Section 482 Cr.P.C.](#) in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has

willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under [Section 482](#) Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under [Section 482](#) Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under [Section 482](#) Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved

against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in [Narinder Singh & Ors. vs. State of Punjab & Ors.](#) and [Laxmi Narayan \(Supra\)](#).

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed between two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

6. From the perusal of the enclosed FIR, statement of the parties and their counsels and compromise arrived between the parties, it transpires that contesting parties have amicably resolved their issue, thus, no useful purpose would be served by continuing the proceedings. The offence of rape is not simple brutality or cruelty upon person of a female whereas it amounts to quelling sole, heart and mind of a victim as well her entire family members which in Indian context drastically affects their social, moral and matrimonial life. The possibilities of getting suitable matrimonial match abysmally reduce.

In the present case, the petitioner and prosecutrix are well educated, matured and grown up. The prosecutrix was quite competent to understand pros & cons as well consequences of her act and conduct.

Case of petitioner is covered by judgments of Hon'ble Supreme Court in

Uday Versus State of Karnataka, (2003) 4 SCC 46; Deelip Singh alias Dilip Kumar Versus State of Bihar, (2005) 1 SCC 88; Deepak Gulati Versus State of Haryana, (2013) 7 SCC 675; Dr. Dhruvaram Murlidhar Sonar Versus State of Maharashtra and Others (2019) 18 SCC 191 and Naim Ahamed Versus State, (2023) Live Law (SC) 66. Denial of prayer of the petitioner not only would be against the interest of petitioner but also victim and her family members. Further, there appears to be no chance of conviction, thus, the continuance of the proceedings would just waste valuable judicial time and it is well-known fact that courts are already over burdened.

7. Considering above narrated facts and circumstances, age, conduct of parties, and afore-cited judgments, the present petition deserves to be allowed and accordingly allowed.

8. FIR No.41 dated 03.04.2021 under Section 376(2)N, 354C, 506 IPC registered at Police Station Women Sector-51, Gurugram and final report under Section 173(2) Cr.P.C and all other consequential proceedings arising therefrom are quashed qua the petitioner(s).

(JAGMOHAN BANSAL)
JUDGE

02.06.2023
Ali

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