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DATE OF DECISION : 30.07.2024

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[3] As per the report of the learned Addl. Sessions Judge, Kaithal, the statements of the parties have been recorded. The compromise is reported to be genuine. The parties have effected a compromise amicable and with the intervention of the respectable. There is no other accused except the petitioner. The petitioner is not involved in any other case.



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[4] As per the order dated 25.04.2024, the contentions on behalf of learned counsel for the petitioner were recorded that petitioner and respondent No.3 have solemnized marriage and as per order dated 21.05.2024 the marriage card (Annexure P-5) and photographs of the marriage (Annexure P-6) were taken on record.

[5] Learned State counsel has confirmed that the said documents have been verified. It is further confirmed that petitioner and respondent No.3 have solemnized marriage.

[6] A reply, dated 22.07.2024 by way of an affidavit of Sh. Kuldeep Singh, HPS, Deputy Superintendent of Police Guhla, District Kaithal, along with Annexures R-1 to R-4 have already been filed by learned State counsel. The same are taken on record.

[6.1] The State counsel has also made a reference to the aforesaid reply and has submitted that an inquiry was conducted by SI Rampal regarding the genuinences of Annexures P-5 to P-8 and statement of Bhupinder Singh, Numberdar of the village has also been recorded. The statement is annexed as Annexure R-1 with the reply. The statement of Raj Pal (father of the petitioner) and statements of Pandit Surjit Ram have also been annexed as Annexures R-2 and R-3. Pandit Surjit Ram has confirmed that he conducted the marriage ceremony between the petitioner and respondent No. 3 on 06.02.2023. The factum of birth of the child and authenticity of the documents Annexures P-5 to P-8 was also confirmed.

[7] Learned counsel appearing on behalf of respondent Nos. 2 and 3 has confirmed the factum of compromise between the parties.



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[8] Learned State counsel has not raised any objection regarding the acceptance of the present petition.

[9] I have considered the facts and circumstances of the pretest case and perused the paper-book.

[10] The FIR was registered on 01.04.2022 and the age of the prosecutrix was recorded as 17 years 2 months in the FIR. Even the State counsel has confirmed the date of birth of the prosecutrix as 14.01.2005, as such the age of the victim was 17 years, 2 months and 10 days at the time of the registration of the FIR. The compromise (Annexure P-2) is stated to have been executed on 16.01.2023 as such the age of the prosecutrix was 18 years and 02 months at the time of the execution of the said agreement. As per the compromise (Annexure P-2), the prosecutrix has solemnized her marriage with the petitioner- Hardeep alias Happy and now she is living a happy married life in her matrimonial home and even a male child was born out from the said wedlock on 01.07.2024. Though the prosecutrix was minor at the time of the alleged occurrence, however keeping in view the subsequent developments that both have solemnized marriage with each other, a male child was also born out from the said wedlock, they are happily living together, further prosecution on the basis of the present FIR would be neither in the interest of the prosecutrix nor the complainant.

[11] While taking a humanitarian approach in such a matter, the Hon'ble High Court of Kerala at Ernakulam in case, titled XXXXX vs. State of Kerala (CRL.MC No. 2031 of 2024), decided on 22.07.2024



was registered under POCSO Act, observations are as under:-

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*“8. Thus, the law as it stands is that although High Court can invoke its jurisdiction u/s.482 Cr.P.C. even in noncompoundable offence and can quash the proceedings on the basis of settlement arrived at between the parties even in the cases of non-compoundable offences but while exercising its jurisdiction this Court must consider the fact that whether the proceeding relates to any serious and heinous offences and whether the crime in question has impact over the society. In cases of serious nature which affects the society at large this Court should not exercise its jurisdiction under Section 482 Cr.P.C. for quashing the proceedings on the basis of compromise executed between the parties. (See decisions in **Gian Singh v. State of Punjab and Another** reported in [(2012) 10 SCC 303], **Narinder Singh and Others v. State of Punjab and Another** reported in [(2014) 9 SCC 466], **Shimbhu v. State of Haryana** reported in [AIR 2014 Supreme Court 739](three Bench), **State of Madhya Pradesh v. Madanlal** reported in [AIR 2015 Supreme Court 3003] (two Bench), **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another** reported in [(2017) 9 SCC 641], **State of Madhya Pradesh v. Laxmi Narayan & Ors.** reported in [(2019) 5 SCC 688], **Arun Singh and Others v. State of Uttar Pradesh** Through its Secretary and Anoth her reported in [(2020) (3) SCC 736], **Ram Gopal & Another v. State of Madhya Pradesh** reported in [(2021 0 Supreme (SC) 529)], **Daxaben v. The State of Gujarat & others** reported in [2022 LiveLaw (SC)*



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642], *P.Dharmraj v. Shanmugam and others* decided on 8th September 2022 in Crl.Appeal Nos.1515-1516 of 2022).

9. Thus, settlement of cases including offence of rape and POCSO Act offences is not permissible under law. However, in the instant case, though the 1st accused after maintaining relationship with the minor victim subjected her to sexual molestation and she became pregnant, as of now, the 1st accused married the victim and now, they have been living happily with two children. In such cases, the tough nut stand in the way of settlement shall be crushed with humanitarian consideration as the hammer, so as to ensure the peaceful family living of the parties and most importantly to ensure the well being of the children born to them. Hence, there is no necessity to continue criminal proceedings so as to retain them in the hazards of litigation and to collapse their married life and the well being of the children. In view of the matter, in deviation from the general principle, this is a fit case, where quashment is liable to be allowed. Therefore, I am inclined to allow the prayer for quashment.”

[12] Similarly, the Hon’ble High Court of Himachal Pradesh at Shimla, in the case titled Aryan vs. State of Himachal Pradesh and another (Cr.MMO No. 171 of 2024), decided on 03.04.2024, the petitioner filed a petition under Section 482 Cr.P.C. seeking quashing of an FIR registered under Section 4 of the POCSO Act, said to be compromised where petitioner and respondent No. 2 have solemnized marriage and were having an offspring as well. The observations of the High Court are as



under:-

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“12. In view of the peculiar facts of the instant case, the petitioner and respondent No.2-Victim ['X'] had bitterness leading towards the accusation in FIR; but now since the petitioner and respondent No.2 have solemnized their marriage and have an offspring now; and both have cordial relation and have no grudges against either of them as of now. This Court ensured the presence of the Respondent No.2-Victim ['X'] who corroborated the factum of marriage, an offspring from their wedlock with the petitioner. Even the complainant, on being present this Court has corroborated the factum of their marriage as well as the child born therefrom and the cordial relations inter se. In this backdrop, this Court is satisfied that the FIR and the criminal proceedings therefrom need to be quashed and set-aside, so as to meet the ends of justice. Giving a quietus to entire criminal proceedings/action shall promote harmony, orderly behavior and conduct amongst themselves. Any reverse action in continuing with the FIR and criminal proceedings shall lead to reviving bitterness, restoring inimical relations not only amongst themselves but may adversely affect their respective families and relations also. The societal effect of continuing with the proceedings shall lead to tarnishing the reputation, spoiling her life, irreparable harassment and hardships not only to the Respondent No.2-Victim ['X'], but also his offspring, which can never be the intent of law. Lastly, the continuance of proceedings [in FIR and criminal proceedings therefrom] shall not entail any fruitful result when, the complainant and the Respondent No.2- Victim ['X'] alleged victim have decided not to continue with these proceedings. Even the



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pendency will lead to cloaking the docket of the State Authorities and the Court(s), knowing that it will end in futile exercise.”

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[13] In view of the facts and circumstances of the matter that the petitioner and respondent No. 3 have solemnized marriage on 02.05.2024; and in view of the ratio of the decisions in XXXX vs. State of Kerala (*supra*) and in Aryan (*supra*), it is a fit case to exercise jurisdiction under Section 482 Cr.P.C to quash the proceedings on the basis of the FIR, which is registered at the instance of respondent No. 3.

[14] Consequently, this petition is allowed and FIR No.127 dated 01.04.2022, under Sections 363, 366-A, 376(2)(n), 506 IPC, 1860 and Section 4 of POCSO Act, 2012, registered at Police Station Cheeka, District Kaithal and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

[15] However, respondent Nos.2 and 3 and the State shall be at liberty to seek cancellation of this order, in case the final terms and conditions of compromise dated 16.01.2023 are violated.

[16] Pending miscellaneous application(s), if any, shall also stand disposed of.

30.07.2024 (HARPREET KAUR JEEWAN)
Janki/nitin JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes