



that the FIR in question is totally false and fabricated one and was registered to teach the petitioners a lesson for life time. He has argued that actually petitioner no.1 Akash and Shikha Yadav (daughter of the complainant) developed liking towards each other and when she disclosed the said fact to her father – the complainant, then he flatly refused to accept the petitioner Akash as her husband. The mother of Shikha Yadav was having knowledge about the love affair of the petitioner Akash with her daughter Shikha Yadav. On 22.11.2018, Shikha along with her mother Ritu Yadav left home on the pretext of going to the Bank and from there, Shikha went with Akash and petitioner no.2 – Anshumaan Kumar, who was accompanying them with the purpose of getting their marriage performed. The complainant connived with the police and got registered the FIR in question with the allegation that the petitioners had kidnapped Shikha Yadav. Shikha Yadav had already performed marriage with Akash on 01.07.2019, as per Marriage Certificate Annexure P-2 and they both are happily living together in their matrimonial house. Out of the said wedlock, a daughter namely Hitakshi was born on 12.12.2022. A copy of Birth Certificate of Hitakshi has been annexed as Annexure P-3. It was further contended that the petitioners never kidnapped Shikha Yadav and her mother. Moreover, the parties have now entered into compromise. Even Shikha Yadav has also sworn affidavit dated 21.05.2024 (Annexure P-4) that she or her mother were never kidnapped by the petitioners and the complainant has also agreed to the same. In these circumstances, continuation of FIR is abuse of process of law.

4. Learned counsel for respondent no.2/complainant and Ritu Yadav



has submitted that parties have entered into compromise. So, the FIR against the petitioners be quashed.

5. Learned State counsel has submitted that after completion of investigation, Challan was submitted before the Court concerned. The charge has already been framed against the petitioners. Even complainant has already been examined during the trial against the petitioners. Evidence of prosecution is concluded and now case is fixed for defence evidence. The offence committed by the petitioners is against the Society and is a very heinous crime. So, FIR registered against the petitioners cannot be quashed.

6. I have heard the arguments advanced by learned counsel for the parties and have also gone through the case file.

7. At the outset, it is required to be noted that in the case in hand, the charge is already framed and the complainant has already deposed during the trial. The evidence of prosecution is concluded and now case is fixed for defence evidence. The occurrence pertains to November 2018. After long time, Shikha Yadav has sworn an affidavit on 21.05.2024 (Annexure P-4).

In case **State of Maharashtra vs. Vikram Anantrai Doshi** reported as **2014(4) Recent Apex Judgments (R.A.J.) 382**, Hon'ble Supreme Court has held that the principal duty of Court, while exercising the powers under Section 482 Cr.P.C. to quash the criminal proceedings, should be to scan the entire facts to find out the thrust of the allegations and crux of the settlement.

In case **Gian Singh vs. State of Punjab** reported as **2012 (4) RCR (Criminal) 543**, it is held by Hon'ble Supreme Court that before quashing

FIR, the High Court must have due regard to the nature and gravity of the



crime. Heinous or serious offences of mental depravity or offences like murder, rape, dacoity etc. cannot be quashed even though the victim or victim's family and offender have settled the dispute. Such offences are not private in nature and have serious impact on the Society. In case **State of Madhya Pradesh vs. Laxmi Narayan and others** reported as **2019 (2) RCR (Criminal) 255**, it is held by Hon'ble Supreme Court that the offence falling in category of heinous crimes cannot be quashed on the sole ground of compromise. It is further held that it should have been appreciated that it is not in every case where the complainant has entered into compromise with the accused, there may not be any conviction. In a given case, it may happen that the prosecution still can prove the guilt by leading cogent evidence and examining the other witnesses and the relevant evidence/material, particularly when the dispute is not a commercial transaction and/or of a civil nature and/or is not a private wrong. In this case, the Hon'ble Supreme Court laid down the principles for quashing criminal proceedings in para no.13 of the judgment, which is as under :-

“13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when



the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under [Section 307](#) IPC and/or the [Arms Act](#) etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of [Section 307](#) IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307](#) IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under [Section 307](#) IPC. For this purpose, it would be open to the High Court to go by the nature of



injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of [Narinder Singh](#) (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

8. The case in hand was registered on the allegations that the complainant received call on his mobile phone from the mobile of his wife that his wife Ritu Yadav and daughter Shikha Yadav were in the custody of the caller and he had abducted them for ransom of Rs.50 lacs. The caller threatened the complainant to pay the amount for release of his wife and daughter, otherwise he would kill both of them. The complainant called his



mother on her mobile number, who told that Ritu Yadav and Shikha had gone to the bank. The complainant reached home. On reaching home, his mother told him that she had also received a call on her mobile regarding abduction of Ritu Yadav and Shikha. The abductor demanded Rs.50 lacs, otherwise threatened to kill them. The father of complainant also received similar call on his mobile number. The complainant again received a call and the caller asked him to check his Whatsapp. Then, he informed the police regarding the same.

9. The offence under Section 364-A IPC was registered, which is punishable with death or imprisonment for life and offender is liable to pay fine. The offence is very serious. It is against the Society at large. The prosecution evidence is already recorded. Case is at the stage of defence evidence. After more than five years of registration of the case, the complainant and accused have entered into compromise. It is seen that generally, trial is delayed on the one pretext or the other and ultimately, complainant party enters into compromise and petition for quashing of FIR is filed in this Court. The petitioners/accused are liable to face trial. The Courts are not meant to legalize the illegalities of the parties. The criminal cases, which are heinous in nature, cannot be quashed.

10. In the light of the above discussion, the FIR in question cannot be quashed. Accordingly, the present petition, being devoid of any merit, is hereby dismissed.

11. However, nothing observed herein above shall be construed to be an expression of opinion on the merits of the case. The observations

recorded above are only for the purpose of deciding the present petition.

12. Pending applications, if any, shall stand disposed of along with this judgment.

August 21, 2024

monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.