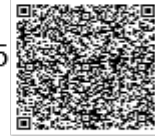


CRM-M-35883-2024 (O&M)

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2024:PHHC:164705



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-35883-2024 (O&M)

Date of Decision: 10.12.2024

Azad

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Ajay Bansal, Advocate for the petitioner.

Mr. Aditya Pal Singla, A.A.G., Haryana.

Mr. Arun Gupta, Advocate for respondents No.2 and 3.

NIDHI GUPTA, J. (ORAL)

Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR No.0247 dated 04.5.2022 (Annexure P-1) under Sections 363 and 366 IPC (Section 376(2)(n) of Indian Penal Code and Section 6 of the Protection of Children from Sexual Offence Act, 2012 added later on), registered at Police Station Panipat City, District Panipat and all the consequential proceedings arising therefrom on the basis of compromise in the shape of affidavits of the victim/respondent No.3 and complainant/respondent No.2 both dated 20.7.2024 (Annexure P-6 colly).

Pursuant to the order dated 29.07.2024 passed by this Court, the parties have appeared before the learned Additional Session Judge-cum-Fast Track Court (POCSO), Panipat, to get their statements recorded. Learned Additional Session Judge-cum-Fast Track Court



(POCSO), Panipat, has submitted his report along with statements of the parties vide letter dated 23.08.2024 duly forwarded by the learned District and Sessions Judge, Panipat.

A perusal of the above said report would show that the petitioner and respondents No. 2 and 3 have appeared and suffered statements with respect to the compromise which have been found to be genuine, voluntary, without any threat or coercion. The petitioner has never been declared as proclaimed offender.

Learned counsel for the petitioner additionally submits that the petitioner and victim/respondent No.3 have solemnized marriage on 13.03.2022 and out of the said wedlock one daughter, namely, Angel has been born on 28.02.2024. The petitioner and the victim/respondent No.3 are living happily as husband and wife.

Learned State counsel as well learned counsel for the complainant have stated that they have 'no objection' in case the FIR is quashed on the basis of compromise qua the petitioner.

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

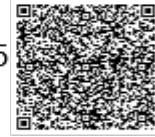
After perusing the report submitted by the learned Additional Session Judge-cum-Fast Track Court (POCSO), Panipat, this Court finds that the matter has been amicably settled between the petitioner and respondents No. 2 and 3. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be



quashed.

In normal circumstances, the Court would not entertain a matter when the non compoundable offences are heinous in nature and against the public. In the instant case, the offence is under Section 376(2) (n) IPC, which is an offence of grave nature. In the eyes of law, the offence of rape is serious and non-compoundable and the Courts should not in the ordinary circumstances interfere and quash the FIR that has been registered. However, there are always exceptions to the normal rules and certain categories of cases, which deserve consideration specially when it is case of love affair between teenagers and on fear of the society and pressure from the community one party alleges rape, cases where the accused and the victim are well known to each other and allegation of rape is levelled only because the accused refused to marry, as well as the age, educational maturity and the mental capacity, sequences of the same ought to be kept in mind when inclined to interfere. In the instant case, the present FIR was registered at the instance of respondent No.2 due to some misunderstanding between the parties. Moreover, with the intervention of respectables, a compromise has also been entered into between them whereby it is decided by the complainant that the FIR would not be pursued.

The Hon'ble Supreme Court in the case of *Narinder Singh and others vs. State of Punjab and another, 2014(6) SCC 466*, has laid down certain principles and guidelines which should be kept in mind while quashing of FIRs pertaining to non-compoundable offence. For



ready reference paragraphs No.29.2 and 29.5 are reproduced as under :-

“29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure: (i) ends of justice, or (ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case.”

Even in a judgment rendered by the Hon'ble Supreme Court in ***Madan Mohan Abbot vs State Of Punjab, 2008 (4) SCC 582***, it has been held that it is advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings. Relevant paragraphs of the said judgment are reproduced herein below:-

“5. It is on the basis of this compromise that the application was filed in the High Court for quashing of proceedings which has been dismissed by the impugned order. We notice from a reading of the FIR and the other documents on record that the dispute was purely a personal one between two contesting parties and that it arose out of extensive business dealings between them and that there was absolutely no public policy involved in the nature of the allegations made against the accused. We are, therefore, of the opinion that no useful purpose would be served in continuing with the proceedings in the light of the

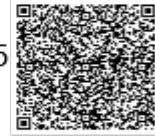


compromise and also in the light of the fact that the complainant has, on 11th January 2004, passed away and the possibility of a conviction being recorded has thus to be ruled out.

6. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.

7. We see from the impugned order that the learned Judge has confused a compounding of an offence with the quashing of proceedings. The outer limit of Rs.250/- which has led to the dismissal of the application is an irrelevant factor in the later case. We accordingly allow the appeal and in the peculiar facts of the case, direct that FIR No.155 dated 17th November 2001 P.S. Kotwali, Amritsar and all proceedings connected therewith shall be deemed 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 proceedings 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 here-in-below:-

“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 here-in-above, this petition is **allowed**; FIR No.0247 dated 04.5.2022 (Annexure P-1) under Sections 363 and 366 IPC (Section 376(2)(n) of Indian Penal Code and Section 6 of the Protection of Children from Sexual Offence Act, 2012 added later on), registered at Police Station Panipat City, District Panipat and all the consequential proceedings arising therefrom on the basis of compromise in the shape of affidavits of the victim/respondent No.3 and complainant/respondent No.2 both dated 20.7.2024 (Annexure P-6

