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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-43317-2022 (O&M)

Date of Decision: 31.01.2024

RAGHUBIR AND OTHERS

.....PETITIONERS

Vs.

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: None for the petitioners.

Ms. Mayuri Lakhanpal, D.A.G. Haryana.

None for respondent No. 2.

HARPREET KAUR JEEWAN J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 0615 dated 04.10.2021, registered at Police Station Narnaund, Tehsil Hansi, District Hisar, under Section 148, 149, 323, 324, 354-A (1) (i), 452 and 506 of the IPC and Section 8 Protection of Children from Sexual Offences Act, 2012, (for short 'the POCSO Act') on the basis of a compromise dated 10.08.2022 (Annexure P-2) between the parties.

2. As per the allegations in the FIR on 04.10.2021, the daughter of the complainant was present at home and preparing breakfast. Petitioner No. 3-Sunil Kumar entered the house and sexually harassed the victim whose age is about 15 years. Thereafter, the brother of the victim came who was attracted by hearing the voice raised by the victim. The brother of the victim was agitating but in the meantime, petitioner No. 1-Raghubir and other co-accused reached there and started giving beatings to the victim and his

brother. When the father of the victim reached, he was also beaten up with 'Lathis' and 'Dandas'. It is further an allegation that even 10 months prior to the occurrence, the victim was beaten up.

3. The offence is alleged to have been committed against a minor. The prayer in the present petition is for quashing of the FIR on the basis of a compromise (Annexure P-2) which is alleged to have been signed on behalf of the complainant who is the father of the victim. Even the affidavit dated 10.08.2022 (Annexure P-3) has been filed by the father of the victim stating that the matter has been compromised.

4. No one has put in appearance on behalf of the petitioners as well as respondent No. 2. The same was the situation on the previous date of hearing, i.e. 19.10.2023.

5. The State counsel has informed that the final report under Section 173 Cr.P.C. has already been presented in the Court and charges have also been framed.

6. In the present case, the victim is a minor who is yet to be examined during the trial. Though the FIR was registered at the instance of the father of the victim who is a signatory of the compromise but keeping in view the fact that offence under Section 8 of POSCO Act is attracted, the father cannot be permitted to make a compromise on behalf of the minor victim.

7. The Full Bench of Hon'ble the Apex Court in Parbatbhai Aahir alias Parbatbhai Bhimsinhhai Karmur and others vs State of Gujarat and another (2017) 9 SCC 641, summarized broader principles with regard to exercise of power under Section 482 Cr.P.C in the cases of

compromise/settlement between the parties, which have been reiterated as under:-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1 Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

16.2 The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3 In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

16.4 While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

16.5 The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves

ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

16.6 *In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;*

16.7 *As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;*

16.8 *Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;*

16.9 *In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and*

16.10 *There is yet an exception to the principle set out in propositions 16.8 and (ix) 16.9 above. Economic offences involving the financial and economic well-being of the*

state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

8. Relying upon the aforesaid decision, Hon’ble the Allahabad High Court in Nitin Singhal and anohter vs. State of U.P. and another 2018 CriLj 3654, dismissed the petition under Section 482 Cr.P.C. and declined to quash the criminal proceedings which were initiated under the POCSO Act but later on the matter was compromised.
9. Similar view view was taken by Hon’ble the Delhi High Court in Sunil Raikwar vs. State and another (2021) 1 RCR (CrI.) 883.
10. In view of the facts of the present case and keeping in view the ratio of the aforesaid decisions, no ground for exercising the power under Section 482 Cr.P.C. is made out.
11. Consequently, the petition is dismissed.
12. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
13. Pending miscellaneous application (s), if any, shall also stand disposed of.

January 31, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether reportable	No