



Sr. No.272

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

**CRM-M-47088-2023 (O&M)
Date of decision: 17th September 2024**

SUMIT**Petitioner**

versus

STATE OF HARYANA AND ANOTHER**Respondents**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Govind Chauhan, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

Mr. Himanshu Choudhary, Advocate for
Mr. Tushar Wadhwa, Advocate
for respondent No.2.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Prayer in the instant petition filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “*the Code*”), is for quashing of the FIR lodged against the petitioner, on the basis of compromise effected between the parties.
2. The FIR bearing No.34 dated 18.01.2017 was registered against the petitioner at the instance of respondent No.2-wife of the petitioner, under Section 377 IPC, 1860, at Police Station Samalkha, District Panipat (Annexure P-1), with the allegations that her marriage was solemnized with the petitioner-Sumit Maan in June 2013, on the basis of fabricated documents of marriage due to which, the petitioner remained in custody for a period of 14 months. Thereafter, the petitioner solemnized marriage with respondent No.2 and on that basis, he was acquitted during the trial in the said case. However, the petitioner used to give beatings to

respondent No.2 and also used to abuse her. He had been forcibly committing



unnatural sex with respondent No.2/prosecutrix. The prosecutrix belongs to *Balmiki* caste, whereas, the petitioner belongs to *Jaat* caste. The petitioner and his family members had also been demanding dowry from her.

2.1 On 20.01.2017, medical examination of the prosecutrix was got conducted. During the investigation, offence under Sections 498-A, 379, 34 IPC and Section 3 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, were not found true. However, the final report/ challan under Section 173 Cr.P.C. was presented against the petitioner.

3. The present petition has been filed for quashing of the FIR and the subsequent proceedings on the basis of the compromise deed dated 09.09.2023 (Annexure P-2), as per which, respondent No.2 has no objection if the present FIR is quashed.

4. As per the order dated 22.09.2023, the parties were directed to appear before the trial Court for recording of their statements.

5. Pursuant to the aforesaid order, the parties have appeared before the Sub-Divisional Judicial Magistrate, Samalkha and got their statements recorded. On the basis of the statements so recorded, the learned Magistrate has submitted report dated 30.10.2023 with the following observations:-

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1. There is only one accused namely Sumit Mann arrayed in the present FIR.

2. As per the statement of the Investigating Officer, no accused has been declared as proclaimed offender.

3. Compromise effected between the parties is genuine, voluntary and without any coercion, undue influence, misrepresentation etc.

4. As per the statement of the Investigating Officer, there is only one victim/complainant namely Smt. Deepika. All the victim/complainant as



well as the accused are party to the compromise. The present accused is not involved in any other case.

5. As per the statement of the Investigating Officer, there is only one complainant in the present FIR.

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6. I have heard the learned counsel for the parties and perused the relevant documents.

7. No doubt, Section 482 Cr.PC. preserves the inherent powers of the High Court to prevent the abuse of process of any Court and to secure the ends of justice, as such, the jurisdiction can be invoked to quash a First Information Report or criminal proceedings on the ground of settlement between the parties, where it is not a private dispute.

8. However, in the present case, the FIR was registered at the instance of respondent No.2 with the allegations that the petitioner prepared fabricated documents of marriage showing that he had solemnized marriage with respondent No.2-first informant, due to which, the petitioner remained confined in jail for a period of 14 months. Later on, the petitioner is alleged to have solemnized marriage (real marriage) with respondent No.2 and there are allegations that the petitioner used to forcibly commit unnatural sex with respondent No.2.

9. In view of the facts and circumstances of the case, which reflects that there are allegations against the petitioner regarding forgery of documents regarding which, he is alleged to have remained in custody and keeping in view the conduct of the parties and the nature of the allegations upon which the present FIR was lodged, this Court is of the considered opinion that the dispute between the parties is not private in nature. In case a compromise with such kind of allegations



is accepted, this would stamp such relationship, which is based upon fabrication of documents and it would also stamp the allegations of commission of unnatural sex.

10. The Hon'ble Apex Court, in *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur vs. State of Gujarat* ; 2017 (4) R.C.R. (Criminal) 523, while laying down the broader principles of Section 482 of the Code, declined to invoke the jurisdiction, where the allegations were regarding fabrication of a power of attorney. The observations of the Hon'ble Apex Court are as under:-

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

(i) 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;

(ii) 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.

(iii) 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;

(iv) 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;



(v) 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;

(vi) 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;

(vii) 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;

(viii) 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;

(ix) 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

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) 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.

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11. In view of the facts and circumstances of the present case and in view of the ratio of the decision in Parbatbhai Aahir (supra), it is not a fit case for invoking jurisdiction under Section 482 of the Code.
12. Consequently, the present petition stands dismissed.
13. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

17th September 2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No