



CRM-M-49770-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49770-2023 (O&M)

Date of Decision: 12.12.2024

DHARMENDER SHARMA

.. Petitioner

Vs.

STATE OF HARYANA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajesh Nain, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

None for respondents No.2 and 3.

...

SUMEET GOEL, J. (Oral)

1. The present petition has been preferred for quashing of the FIR No.218 dated 07.07.2023, under Sections 6 of POCSO Act, 2012 (Section 10 of POCSO Act added and Section 6 of POCSO Act deleted later on) registered at Police Station Barara, District Ambala, Haryana as also the proceedings emanating therefrom on the basis of compromise having been arrived at between the rival private parties.

2. The FIR in question entails offence(s) relating to the Protection of Children from Sexual Offences Act, 2012 as well. The Hon'ble Supreme Court in a judgment titled as ***Ramji Lal Bairwa and another vs. State of Rajasthan & Ors.;2024 INSC 846***, has held as under:

"28. A bare perusal of the impugned order and in the light of the observations and binding conclusions in Gian Singh's case (supra), bearing in mind the allegations in the subject FIR, it would reveal that the High Court has misread and misapplied the law laid down in Gian Singh's case (supra) to quash the subject FIR and all further proceedings based in pursuance thereof. We are at a loss to understand how the High Court arrived at the conclusion that in the case on hand a dispute to be resolved exists between the parties and further that to maintain harmony the FIR and all further proceedings thereto should be quashed even without



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adverting to the allegations raised against the 3rd respondent in the subject FIR. It is also a fact that though in terms of the decision in *Gian Singh's case (supra)* an irrecusable duty of the Court to consider whether the compromise could be acted upon or not in the interest of justice, the impugned order would reveal that the High Court has failed to bestow proper consideration in that regard as well.

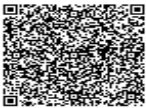
29. In the contextual situation, it is also relevant to refer to a Three Judge Bench decision of this Court in *State of M.P. v. Laxmi Narayan*¹⁶. This Court held that whether an FIR is quashable or not would depend upon the facts and circumstances of each case and while considering that question, the Court has to apply its mind to (i) whether the crime is one against the society or against an individual alone, nature of the dispute, (ii) seriousness and how the crime was committed (iii) whether offence(s) is one under a special statute (iv) stage of proceedings and how the accused managed to compromise with the complainant.

30. In this regard, it is relevant to note that in the case on hand the victim was then a student of Class 11th in the Higher Secondary aged 16 years. The statement annexed to the FIR of the complainant viz., the 4th respondent itself would reveal that on 08.01.2022 he complained about the pressure from the 3rd respondent to restrain him from lodging report. The compromise was entered immediately thereafter on 31.01.2022. Despite the said position, the Court has not chosen to consider whether the compromise entered into between the parents and the accused could be acted upon or not, in the interest of justice, taking note of the serious allegations levelled against the 3rd accused and in view of the law laid down in *Gian Singh's case (supra)*. In that context, it is relevant to refer to a decision of a learned Single Judge of the Delhi High Court in *Sunil Raikwar v. State and Another*¹⁷. Paragraph 12 therein, to the extent it is relevant reads thus:-

"12. The father of the victim cannot be permitted to settle the dispute with the accused. He is not the victim and the courts have to safeguard and protect the interest of children against onslaught by bad forces. We cannot lose sight of the fact that the accused is being prosecuted for an offence that shocks the value system of a society and this is not a matter that can be permitted to be settled as a compoundable minor offence. Deterrence to others committing similar offence is a must and they cannot get a signal that anything and everything can be compromised."

31. In view of the very object and purpose of enacting the POCSO Act, we find no reason to disagree with the conclusions in paragraph 12 extracted above in the given case. It is more so, when the extracted portion from the complaint that was annexed to the FIR and extracted hereinbefore would reveal that the accused was making pressure on him not to lodge any report. Despite giving such statement in the complaint, within a couple of weeks, the accused managed to compromise the case with the 4th respondent and his wife.

32. In the decision relied on by the High Court to quash the proceedings viz., *Gian Singh's case (supra)* and the decision in *Laxmi Narayan's case (supra)* in unambiguous terms this Court held that the power under Section 482, Cr. P.C. could not be used to quash proceedings based on compromise if it is in respect of heinous offence which are not private in nature and have a serious impact on the society. When an incident of the aforesaid nature and gravity allegedly occurred in a higher secondary school, that too from a teacher, it cannot be simply described as an offence which is purely private in nature and have no serious impact on the society."



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3. Faced with the above ratio decidendi of the judgment of the Hon’ble Supreme Court in *Ramji Lal Bairwa* case (supra), learned counsel appearing for the petitioner seeks to withdraw the petition in hand.
4. Ordered accordingly.
5. Accordingly, the instant compromise quashing petition is dismissed as withdrawn.
6. There is no gainsaying that this Court has not adverted to the merits of the *lis* and the same is left open to be considered in the trial/appropriate proceedings.
7. Pending application(s), if any, shall also stand disposed off.

12.12.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No