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

Sr. No.228

**CRM-M-60584-2023 (O&M)
Date of decision : 24.01.2025**

Dheeraj

..... Petitioner

VERSUS

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. D.S. Matya, Advocate, for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Navneet Kumar, Advocate, for respondent No.2.

KIRTI SINGH, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.338 dated 18.10.2023, under Sections 376(2)(n) and 506 IPC registered at Police Station DLF PH-III Gurugram, District Gurugram and all other consequential proceedings arising therefrom on the basis of the compromise/affidavit dated 06.11.2023 (Annexure P3).

2. Order dated 12.03.2024 passed by a Coordinate Bench, wherein, the parties were directed to record their statements before the trial Court concerned, is reproduced below:-

Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR No. 338 dated 18.10.2023 (Annexure P-1) registered under Sections 376(2)(n) and 506 IPC at Police Station DLF-III Gurugram, District Gurugram and all the consequential proceedings arising therefrom on the basis of affidavit dated 06.11.2023 (Annexure P-3) furnished by respondent No. 2 in favour of the petitioner.

Learned counsel for the petitioner, inter alia, submits that the petitioner and complainant/victim/respondent No. 2 herein, were in

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consensual relationship. At the time of alleged occurrence, the victim was 21 years of age. It is submitted that when the parents of the victim discovered about the relationship between the petitioner and the victim, they have objected to the same and compelled respondent No. 2 to lodge FIR against the petitioner. However, thereafter, respondent No. 2 furnished an affidavit dated 06.11.2023 (Annexure P-3) in favour of the petitioner, wherein she had categorically stated that she do not want to proceed against the petitioner in the present FIR and will co-operate with him in quashing/cancellation of FIR in all manners.

Notice of motion.

On the asking of Court, Mr. Surinder Kumar Dagar, DAG, Haryana, accepts notice on behalf of respondent No. 1-State; whereas Mr. Rohit Sharma, Advocate for Mr. Navneet Kumar, Advocate who is present in Court accepts notice on behalf of respondent No. 2 and submits Vakalatnama, which is taken on record.

Learned counsel for the State objects to the prayer for quashing of FIR (Annexure P-1) and submits that the alleged offence in the present case is under Section 376(2)(n), therefore, the FIR cannot be quashed on the basis of compromise/affidavit (Annexure P-3).

*Learned counsel for the petitioner has relied upon judgments of Hon'ble the Apex Court in **Haji Iqbal @ Bala through S.P.O.A. vs. State of U.P. and others, Law Finder Doc ID # 2283535 and in Criminal Appeal No. 1217 of 2022, Kapil Gupta vs. State of NCT of Delhi and another, decided on 10.08.2022**, to submit that in the aforesaid cases in similar circumstances, the FIR stands quashed on the basis of compromise.*

In view of the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording their statements with regard to the affidavit/compromise dated 06.11.2023 (Annexure P-3) on 30.03.2024 by moving an appropriate application or by presenting this order.

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The trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing i.e. 10.07.2024 containing the following information:-

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a proclaimed offender;*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence;*
- 4. Whether the accused persons are involved in any other FIR or not; and*
- 5. The trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainant as well as accused are party to the compromise in question.*

A copy of the report be sent through FAX, to the Registrar (Judicial) of this Court.”

3. Heard learned counsel for the parties and also gone through the case file.
4. This Court while issuing notice of motion vide order dated 12.03.2024, directed the parties to appear before the trial Court/Illaq Magistrate for recording their statements with regard to the compromise.
5. Pursuant to the aforesaid order, report dated 22.05.2024 has been received from the Judicial Magistrate 1st Class, Gurugram. A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between them and they have no objection in case the FIR in question is quashed. The compromise effected between them is genuine, without any undue influence and coercion.

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6. The Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052***, held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the view that the same was 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.

7. Hon'ble the Supreme Court in the case of ***Gian Singh vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543***, had 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 reads thus:-

“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.

xxx xxx xxx. ”

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8. In view of the afore-referred judgments, perusing the report of the trial Court regarding amicable settlement between the petitioner(s) and the complainant, this Court finds that quashing the FIR will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

9. Resultantly, the present petition is allowed and FIR No.338 dated 18.10.2023, under Sections 376(2)(n) and 506 IPC registered at Police Station DLF PH-III Gurugram, District Gurugram and all other consequential proceedings are quashed qua the petitioner on the basis of the compromise/affidavit dated 06.11.2023 (Annexure P3), **subject to payment of Rs.25,000/- to be deposited in the Poor Patient Welfare Fund, PGIMER, Chandigarh within a period of one month.**

10. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

24.01.2025
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No