
(2021) 01 SHI CK 0043
In the High Court Of Himachal Pradesh
Case No : CR.MMO NO. 388 Of 2020

Girdhari Lal @ Girru

APPELLANT

Vs

State Of Himachal Pradesh & Another

RESPONDENT

Date of Decision : 04-01-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Protection Of Children From Sexual Offences Act, 2012 — Section 4, 8
Indian Penal Code, 1860 — Section 376

Citation : (2021) 01 SHI CK 0043

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : Subhash Chander, Desh Raj Thakur, Kusumlata

Final Decision : Disposed Of

Judgement

Vivek Singh Thakur, J

1. The instant petition, under Section 482 of the Code of Criminal Procedure (hereinafter referred to as "Cr.PC") has been filed by petitioner

Girdhari Lal @ Girru, on the basis of compromise (Annexure P-3) arrived at between him and respondent No.2, for quashing of FIR No.0089 of 2017

dated 07.07.2017, registered in Police Station, BSL Colony Sundernagar, District Mandi, H.P., under Section 8 of the Protection of Children From

Sexual Offence Act, 2012 (hereinafter referred to as "POCSO Act") and subsequent proceedings arising thereto.

2. Petitioner Girdhari Lal @ Girru, respondent No.2- Lata Devi and Bhup Singh, father of respondent No.2, are present in person in the Court today,

who have been identified by their respective learned counsel. Statements of respondent No.2-Lata Devi and her father Bhup Singh, as well as

petitioner-Girdhari Lal @ Girru have been recorded today in the Court.

3. In her statement complainant-respondent No.2 Lata Devi has stated that at the time of incident she was about 15 years of age and studying in 10th

Class. She has further stated that in July 2017 she has been talking with her friends and petitioner till 5.30 pm and as she could not return home from

the school in time, thus because of fear she had hidden herself in the house wherefrom she came out during the night and thereupon, her parents

thought that she returned home late night and when they asked her the reason, she, out of fear, had narrated the alleged incident of occurrence, which

led to registration of FIR. She has further stated that she was also subjected to medico-legal examination and as nothing had happened, therefore, as

per opinion of Medical Officer, based on her medical examination and reports of Regional Forensic Science Laboratory, Mandi, violation of her person

was not found, which led to removal of Section 376 of the Indian Penal Code (IPC) and Section 4 the POCSO Act from the challan and on the basis

of material on record, challan under Section 8 of POCSO Act has been presented against the petitioner.

4. Complainant-respondent No.2 has further stated that now she has married to Sh.Rajeev Kumar and since last one year she is residing with her

husband in the house of her in-laws and because of complaint made by her out of fear, petitioner is facing trial and, therefore, matter has been

amicably settled between the families and compromise has also been reduced into writing between her father Sh.Bhup Singh and accused-petitioner,

copy whereof has been placed on record with the petition. She has further stated that in aforesaid facts and circumstances, she is not interested in

pursuing the criminal case against the petitioner. She has also stated that she has signed the compromise and has deposed in this Court, out of her free

will, consent and without any external pressure, coercion or threat of any kind.

5. In his statement Bhup Singh, father of complainant-respondent No.2-Lata Devi, has endorsed the statement made by her daughter. He has further

stated that a compromise has also been entered between him and accused Girdhari Lal @ Girru, which has been reduced into writing in Tehsil office

Nihri, District Mandi and has been registered with Sub-Registrar Tehsil Nihri and he has also endorsed his thumb impression thereon in presence of

Bidu Ram, Khima Ram and Shiv Ram Up-Pradhan, Gram Panchayat Dumut Behli.

He has further stated that he has deposed in this Court, out of his free will, consent and without any external pressure, coercion or threat of any kind.

6. In his statement accused-petitioner-Girdhari Lal @ Girru, has endorsed the statement made by complainant-respondent No.2 Lata Devi. He has

also stated that a compromise has also been entered between him and Bhup Singh, father of complainant Lata Devi, which has been signed by him in

presence of Bidu Ram, Khima Ram and Shiv Ram-Up Pradhan, Gram Panchayat Dumat Behli and has deposed in this Court, out of his free will,

consent and without any external pressure, coercion or threat of any kind.

7. It is contended on behalf of respondent No.1-State that petitioner-accused is not entitled to invoke inherent jurisdiction of this Court to exercise its

power on the basis of compromise arrived at between the parties with respect to an offence not compoundable under Section 320 Cr.P.C.

8. Three Judges Bench of the Apex Court in Gian Singh Vs. State of Punjab and Ors. reported in (2012) 10 SCC 30,3 explaining that High Court has

inherent power under Section 482 of the Code of Criminal Procedure with no statutory limitation including Section 320 Cr.PC, has held that these

powers are to be exercised to secure the ends of justice or to prevent abuse of process of any Court and these powers can be exercised to quash

criminal proceedings or complaint or FIR in appropriate cases where offender and victim have settled their dispute and for that purpose no definite

category of offence can be prescribed. However, it is also observed that Courts must have due regard to nature and gravity of the crime and criminal

proceedings in heinous and serious offences or offence like murder, rape and dacoity etc. should not be quashed despite victim or victim family have

settled the dispute with offender. Jurisdiction vested in High Court under Section 482 Cr.PC is held to be exercisable for quashing criminal

proceedings in cases having overwhelming and predominatingly civil flavour particularly offences arising from commercial, financial, mercantile, civil

partnership, or such like transactions, or even offences arising out of matrimony relating to dowry etc., family disputes or other such disputes where

wrong is basically private or personal nature where parties mutually resolve their dispute amicably. It was also held that no category or cases for this

purpose could be prescribed and each case has to be dealt with on its own merit

but it is also clarified that this power does not extend to crimes against society.

9. The Apex Court in *Parbatbhai Aahir alias Parbhathbhai Bhimsinghbhai Karmur and others vs. State of Gujarat and another*, (2017) 9 SCC 641

summarizing the board principles regarding inherent powers of the High Court under Section 482 Cr.P.C. has recognized that these powers are not inhibited by provisions of Section 320 Cr.P.C.

10. The Apex Court in *case Narinder Singh and others vs. State of Punjab and others* reported in (2014) 6 SCC 466 and also in *State of Madhya*

Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688 has summed up and laid down principles by which the High Court would be guided in giving

adequate treatment to the settlement between the parties and exercise its power under Section 482 of the Code while accepting the settlement and

quashing the proceedings or refusing to accept the settlement with direction to continue with criminal proceedings.

11. No doubt Section 8 of POCSO Act is not compoundable under Section 320 Cr.P.C. However, as explained by Honâ??ble Supreme Court in *Gian*

Singhâ??s, *Narinder Singhâ??s*, *Parbhatbhai Aahirâ??s* case and *Laxmi Narayanâ??s* cases supra, power of High Court under Section 482

Cr.PC is not inhibited by the provisions of Section 320 CrPC and FIR as well as criminal proceedings can be quashed by exercising inherent powers

under Section 482 CrPC, if warranted in given facts and circumstances of the case for ends of justice or to prevent abuse of the process of any Court,

even in those cases which are not compoundable where parties have settled the matter between themselves.

12. In *Madan Mohan Abbot vs. State of Punjab*, (2008) 4 SCC 582, the Honâ??ble Supreme Court emphasized and advised that in the matter of

compromise in criminal proceedings, keeping in view of nature of this case, to save the time of the Court for utilizing to decide more effective and

meaningful litigation, a commonsense approach, based on ground realities and bereft of the technicalities of law, should be applied.

13. Now, the matter has been amicably settled between the private parties on the basis of compromise arrived at between them, as such, I am of the

considered view that no fruitful purpose shall be served to continue the proceedings against petitioner-accused Girdhari Lal @ Girru.

14. Offence in question, for material on record, does not fall in the category of offence termed to be prohibited, in the pronouncements of Apex Court, to be compounded exercising power under Section 482 of the Cr.P.C.

15. Keeping in view nature and gravity of offence and considering facts and circumstances of the case in entirety, I am of the opinion that present

petition deserves to be allowed for ends of justice and the same is allowed accordingly and FIR No.0089 of 2017 dated 07.07.2017, registered in

Police Station, BSL Colony Sundernagar, District Mandi, H.P., under Section 8 of the POCSO Act is quashed. Consequent to quashing of FIR,

criminal proceedings, if any, initiated against petitioner-accused person in pursuance thereto, are also quashed.

Petition stands disposed of in above terms.

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