

(2024) 04 SHI CK 0079
In the High Court Of Himachal Pradesh
Case No : CR. MMO NO.73 Of 2024

Gulab Singh

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 18-04-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 320(9), 482
Indian Penal Code, 1860 — Section 120B, 212, 342, 354A, 366, 376
Protection Of Children From Sexual Offences Act, 2012 — Section 4, 10

Citation : (2024) 04 SHI CK 0079

Hon'ble Judges : Bipin Chander Negi, J

Bench : Single Bench

Advocate : Vikas Rathore, B.N. Sharma, Shiv Pal Manhans

Final Decision : Disposed Of

Judgement

Bipin Chander Negi, J

1. By way of instant petition filed under Section 482 of the Code of Criminal Procedure, a prayer has been made on behalf of the petitioner for quashing of FIR No.53/2023 dated 09.06.2023, under Sections 354-A and 342 of the Indian Penal Code and Section 10 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as "the POCSO Act", registered at Police Station, Padhar, District Mandi, H.P., as well as consequent judicial proceedings pending before learned Special Judge, Fast Track Court, POCSO, Mandi, H.P.

2. As per the averments contained in the petition, which is duly supported by an affidavit reveals that on 09.06.2023, complainant-Member Child Help Line (1098), had got a FIR registered against the present petitioner under Sections 354-A and 342 of the Indian Penal Code and Section 10 of the POCSO Act, 2012. As a sequel thereto, Challan has been presented before learned Special Judge, Fast Track Court, POCSO, Mandi, H.P. However, during the pendency of proceedings, the dispute inter se parties has been settled amicably vide Compromise Deed dated 14.12.2023, copy whereof, is appended alongwith the

present petition as Annexure P-2. The Compromise Deed has been entered into at the intervention of elder relatives and respectable members of the society with intent to settle the dispute inter se parties.

3. Statements of fathers of victims, i.e., respondents No.2 and 4 stand recorded. They have categorically stated that they have entered into compromise of their own free will, volition and without any pressure. According to the respondents No.2 and 4, the dispute inter se parties, stands amicably settled.

4. I have heard learned counsel for the parties and perused the record carefully.

5. This Court sees no impediment in quashing the FIR in issue, as the dispute inter se the parties, stands amicably resolved.

6. From a perusal of Sections 320 of the Code of Criminal Procedure, it is evident that in so far as Section 342 of the Indian Penal Code is concerned, the same is compoundable. However, Sections 354-A of the Indian Penal Code and Section 10 of the POCSO Act, are cognizable and non-bailable offences, which are not compoundable.

7. In this regard, reliance has been placed upon decision in Cr. MMO No.648 of 2023, case titled Ranjeet Kumar vs. State of H.P & Ors, decided on 8.12.2023, wherein the accused had been charged for an offences punishable under Sections 366, 376, 212 and 120-B of the Indian Penal Code and Section 4 of the POCSO Act.

8. In Ranjeet Kumar's case (supra), after taking into account the law as laid down by the Hon'ble Apex Court, it was categorically stated that sexual offences can invariably never be a subject matter of compromise, However, the Court was of the view that wherein the family members of the child victim settle the dispute and thereafter, they were living a peaceful life, it would not be appropriate to allow the prosecution to continue in such cases, as the same would only result in disturbance in their happy family life and ends of justice would not be served.

9. Besides the aforesaid, the Court was of the view that before quashing of proceedings, the Court must be satisfied after considering the attending facts and circumstances of the case that quashing of proceedings would promote justice for the victim and continuance of the proceedings would cause in justice. It would be appropriate to refer to relevant paras of the judgment, which reads as under:-

"Therefore, in such circumstances, compounding of the offence, in our considered opinion would enable both the parties to lead life of respect and dignity in the society. Once, there is no dispute between them, then obviously the law cannot be so harsh so as to stand as wall between the parties, because the law has to secure the future of the parties, and continuation of criminal proceedings in such circumstances, would only cause an irreparable harassment and hardship and may even tarnish and spoil the reputation of the victim. The Court proceedings cannot be permitted to de-generate into a weapon of

harassment and persecution. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in the shape of Section 320(9) of the Cr.P.C. or any other such curtailment can whittle down the power of the High Court under Section 482 Cr.P.C. to do complete justice. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice".

10. Accordingly, the petition is allowed. FIR No.53/2023 dated 09.06.2023, under Sections 354-A and 342 of the Indian Penal Code and Section 10 of the POCSO Act, registered at Police Station, Padhar, District Mandi, H.P., is quashed and consequent judicial proceedings pending before learned Special Judge, Fast Track Court, POCSO, Mandi, H.P., are also quashed.

11. The petition stands disposed of in the above terms, so also the pending application(s), if any.