
(2020) 12 RAJ CK 0096

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 6171 Of 2020

Hansraj Meena And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 16-12-2020

Acts Referred:

Indian Penal Code, 1860 — Section 307, 363, 366A, 354A, 354C, 376D
Protection Of Children from Sexual Offences (POCSO) Act, 2012 — Section 5, 6, 7, 8, 16, 17
Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2020) 12 RAJ CK 0096

Hon'ble Judges : Sanjeev Prakash Sharma, J

Bench : Single Bench

Advocate : Neeraj Joshi, Mukesh Pal Jadoun

Final Decision : Dismissed

Judgement

The case registered against the petitioners is under Sections 363, 366-A, 354-A, 354-C, 376-D of IPC R/w Sections 5, 6, 7, 8, 16 & 17 of POCSO Act.

Learned counsel for the petitioner submits that a compromise has been arrived at between the petitioner and the prosecutrix and both have filed an

affidavit stating that they want to get married. Learned counsel submits that engagement has also taken place. The marriage cannot take place as the

girl wants to do higher further studys and participate in competitive examination.

Learned counsel for the respondents/prosecutrix also admits that a compromise has been arrived at.

I have considered the submissions.

In view of law laid down by the Supreme Court in the case of State of Madhya Pradesh Vs. Laxmi Narayan and Ors., reported in (2019) 5 SCC 688

it was held as under:-

15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section

320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial

transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2 Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder,

rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3 Similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences

committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the

offender;

15.4 Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be

treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC

and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the

ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because

there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to

whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to

framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such

injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be

permissible only after the evidence is collected after investigation and the charge

sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove; 15.5

While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.

Keeping in view the above and taking into consideration the nature of allegations which relate to committing of offence under Sections 5, 6, 7, 8, 16 & 17 of POCSO Act and the consent of the prosecutrix has no meaning for the purpose of commission of offence under the POSCO Act, this Court does not deem it proper to quash the proceedings on the basis of the compromise.

In the opinion of this Court the allegations of offence under Sections 5, 6, 7, 8, 16 & 17 of POCSO Act form in the category of heinous offences.

Accordingly, the Criminal Misc. Petition is dismissed.