



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

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CRM-M-23106-2025  
Date of decision : 01.05.2025

Pardeep .....Petitioner

versus

State of Haryana and others .....Respondents

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: Mr. Sauhard Singh, Advocate for the petitioner.

Ms. Gaganpreet Kaur, D.A.G., Haryana.

Mr. Ankit Yadav, Advocate for respondents No.2 & 3.

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**NAMIT KUMAR, J. (ORAL)**

1. The petitioner has filed the instant petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of FIR No.147 dated 26.06.2022 registered under Sections 363, 366, 506 of Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offence Act, 2012 (for short 'POCSO Act') at Police Station DLF, Phase-I, Gurugram (Annexure P-1) and all subsequent proceedings arising therefrom qua the petitioner on the basis of compromise effected between the parties (Annexure P-7).

2. Brief facts of the case are that the complainant-Usha wife of Sube Singh made a complaint to the police alleging therein that she is living with her husband and four children in Babu Gujjar's house at Gwal Pahari, Gurugram on rent since about 8/9 years. She is working as Tailor. On 23.06.2022, she sent her elder daughter, who is 15 years old,

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to the market to buy tailoring material such as reel and buckram, who came back home after two hours without the items and apprised that reel and buckram were not found. Next day on 24.06.2022 at around 10 am, she again sent her daughter to the market to get reel and buckram, who came back home after 2-3 hours without the items. She told her that she had a headache and lay down quietly. Next day on 25.06.2022, at night, she got suspicious and asked her daughter, who told her that on both days i.e. 23.06.2022 and 24.06.2022 a boy from Mangar village named Pradeep son of Kishan met her at Mandi bus stand and took her on his bike to a hotel room in Chhatarpur, Delhi and raped her forcefully. When she told him that she will tell about it at home, Pradeep threatened to kill her father. She does not know the bike number and remember the place where Pradeep took her and committed the illicit act. On the basis of the said complaint, the instant FIR has been registered. Investigation has been conducted, statement of the prosecutrix under Section 164 of Cr.P.C. has been recorded, challan has been presented, charges have been framed and now the trial is at the stage of prosecution evidence.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He submits that the statement of the prosecutrix before the Trial Court was recorded on 02.12.2022 in which she did not support the case of the prosecution and turned hostile. In her deposition, she deposed that on 26.06.2022, her mother had some altercation with the mother of the petitioner as he belong to the native village of her mother. She along with her mother



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visited the police station. The petitioner did not commit rape upon her at any point of time nor he enticed her away. Even the complainant, who is mother of the prosecutrix, also turned hostile before the Trial Court. He further submits that at the time of lodging the FIR, the prosecutrix was a minor but now she has turned major and the complainant and the prosecutrix have also entered into a compromise with the petitioner vide compromise deed dated 11.02.2025 whereby, they have reiterated that no rape was committed upon the prosecutrix by the petitioner and they have no objection if the present FIR is quashed. He further submits that the parties have compromised the matter without any coercion and undue influence or pressure and the compromise is in the interest of both the parties as well as for the society. Therefore, the present FIR may be quashed.

4. Learned State counsel has vehemently opposed the instant petition on the ground that the FIR lodged under the provisions of POCSO Act cannot be permitted to be quashed on the basis of compromise. In support of her contentions, learned State counsel has placed reliance upon judgment of Hon'ble Supreme Court passed in ***Ramji Lal Bairwa and another Vs. State of Rajasthan and others : 2024 SCC Online SC 3193.***

5. Learned counsel for the complainant and the prosecutrix has admitted the factum of compromise.

6. I have heard learned counsel for the petitioner and perused the relevant documents.



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7. Perusal of instant FIR show that the allegations against the petitioner are serious in nature. The petitioner took the prosecutix, who is minor, to the hotel room twice and committed rape upon her and threatened her not to tell anything to anybody about the same. Such offences are not private in nature and have a serious impact on the society and by simply entering into a compromise, charges cannot be said to have been mitigated or that the allegations levelled by the complainant and prosecutrix regarding the alleged offence lost its gravity by any means. Further, before exercising the power under Section 482, Cr.P.C. the Court must have due regard to the nature and gravity of the crime besides observing and holding that heinous and serious offences could not be quashed even though a victim or victim's family and the offender had settled the dispute.

8. Furthermore, the instant FIR was registered on 26.06.2022 and now the petitioner has approached this Court for quashing of FIR on the basis of compromise deed dated 11.02.2025 effected between the parties, when the trial is at the stage of prosecution evidence, which is nothing but an abuse of process of law and the petitioner cannot claim quashing of FIR as a matter of right in non-compundable offence. Hon'ble Supreme Court in its judgment passed in ***Narinder Singh and others Vs. State of Punjab : (2014) 6 SCC 466*** has held as under :-

*“29.7 While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may*



*be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”*

9. So far as the argument raised by learned counsel for the petitioner that the prosecutrix and complainant have turned hostile is concerned, considering the provision of POCSO Act, merely because the witnesses have turned hostile and settlement took place is not a ground to acquit or record acquittal of the accused. The prosecution has ample power to put leading question to the witness and if the testimony



of such witness lends corroboration with other reliable evidence produced on record and considering the attending circumstances, Court may appreciate the evidence. This is very early stage to come to the conclusion that if two witnesses have turned hostile then it would be a futile exercise on the part of the Court to continue with such proceedings.

10. The Hon'ble Supreme Court, while dealing with the same issue, in its recent judgment in ***Ramji Lal Bairwa's case (supra)***, has held as under :-

*“12. The objects and reasons for the enactment of the POCSO Act, as extracted above, would undoubtedly show that quashment of proceeding initiated under POCSO Act abruptly by invoking the power under Section 482, Cr. PC without permitting it to mature into a trial, except on extremely compelling reasons ex facie malafidely initiated or initiated solely to settle the score etc., would go against the very intention of the legislature behind the enactment. As noted earlier, it is the inadequacy of the existing laws to address certain issues relating sexual offences against the children that made the legislature to come up with the aforesaid legislation with a view to protect and respect the privacy and confidentiality of children and to ensure their physical, emotional, intellectual and social development. The POCSO Act also addressed the lack of provisions defining various offences against the children and also adequate penal provisions therefor. A careful scanning of the various provisions under the POCSO Act would reveal that with a view to achieve the aforesaid objects and purposes various offences against the children are specifically defined and provisions for adequate penalisation are also inserted in the Act. Obviously, rubbing the breast of a child would constitute an offence of*



*‘sexual assault’ under Section 7 of POCSO Act, punishable with imprisonment of either description for a term which shall not be less than three years and may extend to five years and also fine. They would reveal that the commission of such offences against the children should be viewed as heinous and serious. Needless to say, that commission of such offences cannot be taken lightly as offences of private nature and in fact, such offences are bound to be taken as offences against the society. In the decision in **Attorney General for India v. Satish and Anr. : (2022) 5 SCC 545** at paragraph 38, this Court held thus:-*

*“The act of touching any sexual part of the body of a child with sexual intent or any other act involving physical contact with sexual intent, could not be trivialised or held insignificant or peripheral so as to exclude such act from the purview of “sexual assault” under Section 7. As held by this Court in **Balram Kumawat v. Union of India**, the law would have to be interpreted having regard to the subject-matter of the offence and to the object of the law it seeks to achieve. The purpose of the law cannot be to allow the offender to sneak out of the meshes of law.”*

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33. *In view of the reasons as aforesaid and in the light of the decisions referred supra, the impugned order dated 04.02.2022 of the High Court in S.B.C.R.M.P. No.1348/2022, quashing the FIR No.6/2022 dated 08.01.2022 and all further proceedings pursuant thereto solely on the ground that the accused and the complainant had settled the matter, invites interference. We have no hesitation to hold that in cases of this nature, the fact that*



*in view of compromise entered into between the parties, the chance of a conviction is remote and bleak also cannot be a ground to abruptly terminate the investigation, by quashing FIR and all further proceedings pursuant thereto, by invoking the power under Section 482, Cr.P.C. In the said circumstances, this appeal is allowed. The impugned order dated 04.02.2022 of the High Court in S.B.C.R.M.P. No.1348/2022 is hereby quashed and set aside. Consequently, the FIR No.6/2022, investigation and criminal proceedings pursuant thereto subject to the nature of the report to be filed under Section 173(2), Cr.P.C., be proceeded with against the accused, in accordance with law.”*

11. In the instant case, though the prosecutrix was minor at the time of registration of FIR but in her statement recorded under Section 164 Cr.P.C., it has categorically been stated by her that "On 23.06.2022 accused Pradeep had forcibly took her towards Chattarpur, there he took a room wherein they stayed for 1-2 hours and thereafter, she was dropped at Mandi around 12-12:30 p.m. and on the next day also, the accused took her forcibly and again dropped her at 12:30 in the afternoon and threatened to kill her father" and even the care taker of the hotel has also recorded his statement during investigation that the room, where the crime has been alleged to have occurred, was given to the accused and the prosecutrix, therefore, it is a matter of the trial to ascertain the correctness of the statements, however, this Court has no hesitation to hold that merely the parties have entered into a compromise, and for this reason the chances of conviction of the accused are remote and bleak, cannot be a ground to abruptly terminate



the trial proceedings by quashing the FIR. Further, surprising is the fact that this compromise is being effected after more than one year from the date of attaining the age of majority by the prosecutrix, perhaps might be for extraneous reasons best known to the parties serving their interests, but by no stretch of imagination, this compromise can be construed in the interest of society rather will give wrong impact on the society at large, since acceptance of such an unreasoned compromise, which seems to have been entered between the parties for some extraneous reasons not recorded specifically, may defeat the objects and reasons of the POCSO Act.

12. Needless to observe here that this compromise deed is also not appearing to be a valid document in the eyes of law, since it is not even containing the complete particulars/Sections of the FIR, which is being prayed to be compromised; complete whereabouts of the parties as well as witness(s) like "special mentioning of Adhaar Card Numbers of the parties in the compromise deed and whereabouts of the witness(s)" so as to substantiate authenticity of the document and it is also very surprising that even signatures of the prosecutrix appears to be different on every document, since in the affidavit she is signing as 'Pinki' in 'Hindi and in the Power of Attorney filed today, she is signing as 'Pinki' in 'English' and not only this, in the photocopy of the Adhaar Card annexed with the petition she is signing as 'Kimpi-Pinki' and in her statement recorded under Section 164 Cr.P.C. she is signing as 'Banti' in such kind of facts and circumstances the correctness of the document stands vitiated.



13. Be that as the case may be, it is very strange as well as peculiar case, where at one point of time mother of the prosecutrix is lodging an FIR under the provisions of POCSO Act alleging rape of her minor daughter and at this fag end of the trial is turning hostile by deposing that the jurisdictional police had obtained her signatures on the blank papers on the pretext of completing some formalities, which ultimately led to registration of an FIR for commission of a heinous crime under POCSO Act. Even, if such kind of concocted stands are believed to be true, then as to what were reasons and compelling circumstances to the complainant to approach the jurisdictional police and giving signatures on the blank papers at that point of time, have neither been explained in this petition nor in the statements recorded before the trial Court, therefore, such kind of 'U-Turn' stands and statements in the trial(s) of FIR(s) involving heinous crimes, especially POCSO Act, cannot be permitted in a compromise quashing and the Courts as well as its settled legal procedures cannot be allowed to be used like tools by the litigants parties just to twist and settle their interests, which undoubtedly leads to abuse of the process of law and moreover, such like FIRs involving heinous crimes like rape, especially under POCSO Act, cannot be quashed on the ground that victim after attaining the age of majority has chosen to compromise the matter with the accused without any reason and further exercising jurisdiction under Section 528 of BNSS, 2023 to quash an offence under Section POCSO Act would also go against the objects and reasons of the legislature, which has brought out the special enactment to protect the interests of

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children. Needless to observe here again that in case such kind of 'Compromise Petitions' involving 'U-Turn' stands of the complainant(s)/prosecutrix falling under the category of 'Vulnerable Witnesses' are entertained in routine manner, the same will defeat the objects, reasons and purpose of the POCSO Act and will also lead to abuse of the process of law as well as misuse of State machinery resources, which were put in force, at the instant of complainant, from the date of registration of the FIR till date and that too, at this fag end of the trial.

14. Keeping in view the seriousness of allegations contained in the impugned FIR as well as the law laid down by Hon'ble Supreme Court in the aforesaid judgments, I do not find any merit in the present petition and the same is hereby dismissed.

15. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

**01.05.2025***kothiyal***(NAMIT KUMAR)  
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No