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THE HIGH COURT OF MADHYA PRADESH

MCRC No.58525/2021

Hani Sharma vs. State of M.P. & Anr.

Through video conferencing

Gwalior, Dated : 14.01.2022

Shri D.R. Sharma, Counsel for the applicant.

Shri Rajeev Upadhyay, Public Prosecutor for the respondent/State.

This application under Section 482 of Cr.P.C. has been filed for quashment of Crime No.512/2019 registered by Police Station Kampoo, District Gwalior for offence under Sections 354, 354(D), 506 of IPC and under Sections 7/8, 11/12 of the POCSO Act as well as Criminal Trial No.SC177/2019, on the basis of compromise.

2. It is submitted by the counsel for applicant that respondent No.2 had lodged a report on 25.10.2019 that for the last two years the applicant is teasing her, used to stalk her and harass her but as she was afraid of him, therefore, she did not disclose it to anybody. When the harassment by the applicant crossed its limit, then she informed her parents also. They also tried to persuade the applicant but he did not improve. Thereafter, her parents got her admitted in Engineering College, Pune and at present she is residing there. On 22.10.2019, she has come to her house to celebrate Deewali. On 24.10.2019 she had gone to the house of her maternal uncle. When she was going to ATM in order to withdraw money, then the applicant caught hold of her

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hand and started misbehaving and when she shouted, then he ran away. While fleeing away, he also extended a threat that in case if she lodges a report, then he would kill her and also gave a threat that he will throw acid on her. The police after concluding the investigation filed the charge sheet and the applicant is facing trial in SC No.177/2019 which is pending in the Court of Special Judge, POCSO Act, Gwalior.

3. It appears that an application under Section 320(2) of Cr.P.C. was filed before the Trial Court but since the offences were non-compoundable, therefore, the said application was rejected.

4. By order dated 15.12.2021, this Court had directed the State Counsel to requisition the case diary. Thereafter by order dated 4.1.2022, the parties were directed to appear before the Principal Registrar of this Court for verification of factum of compromise and it was also observed that the merits of the case shall be considered after receipt of report of the Principal Registrar.

5. The Principal Registrar after recording the statements of the victim, her father and the applicant has submitted the following report:

“Statement of Complainant/Prosecutrix XYZ
and her father(name is not being disclosed)
and Accused/Petitioner Hani Sharma S/o Shri

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Rajendra Sharma are recorded. Matter perused, inquired and verified as to factum of compromise **and statement of victim and her father as well as copy of their I.D. kept in sealed envelope separately.**

After verifying from Complainant/ Prosecutrix XYZ D/o(name is not being disclosed) and Accused/Petitioner Hani Sharma S/o Shri Rajendra Sharma that they have arrived at compromise voluntarily, without any threat, inducement and coercion.

According to Sec.320 of CRPC the Offence u/S 506 of IPC is compoundable. But u/S 7, 8, 11 & 12 of PACSO Act are not compoundable.”

6. The statement of respondent No.2 and her father have been kept in a sealed cover. The sealed cover was opened and it has been resealed. From the statement of respondent No.2 it is clear that she has merely stated that now she has compromised the matter.

7. Case diary is available.

8. From the FIR it is specifically clear that the applicant was stalking and harassing the respondent No.2 while the respondent No.2 was in Class-11th. Even the parents of respondent No.2 had tried to persuade the applicant to improve his behavior but he did not do that. Thereafter, respondent No.2 got admission in Engineering College in

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Pune. When she came back to her house to celebrate Deewali, then not only her hand was caught hold by the applicant in a public place but he also misbehaved with her. It is also alleged that while fleeing away he had extended a threat to her life and had also threatened that he would throw acid on her. Undisputedly, the respondent No.2 was minor aged about 17 years on the date of incident and the allegations are that the applicant was stalking and harassing her for the last two years. It is not a simple case of catching hold of hand of a girl on a public place but it is a case where the applicant was continuously stalking and harassing the respondent No.2 and caught hold of her hand in a public place when she had come to her house for celebrating Deewali.

9. Under these circumstances and considering the nature of allegation according to which the applicant was continuously harassing and stalking her, this Court is of the considered opinion that it cannot be said that the offence committed by the applicant is not against the society. Every girl being a citizen of India has a right to live her life peacefully and without any threat to her dignity and life.

10. Under these circumstances, this Court is of the considered opinion that it is not a fit case to quash the proceedings on the basis of compromise.

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11. Accordingly, the application fails and is hereby **dismissed**.

Arun*

(G.S. Ahluwalia)
Judge