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IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA

ON THE 24th DAY OF AUGUST, 2021

BEFORE

HON'BLE MR. JUSTICE ANOOP CHITKARA

CRIMINAL MISC. PETITION (MAIN) U/S 482 CRPC
No.220 OF 2021

BETWEEN:-

Ms. "S" (NAME WITHHELD)

.... PETITIONER-VICTIM

**(BY SHRI N.K. THAKUR,
SENIOR ADVOCATE WITH
SHRI DIVYA RAJ SINGH,
ADVOCATE)**

AND

STATE OF HIMACHAL PRADESH

.... RESPONDENT

**(BY: SHRI NAND LAL THAKUR,
ADDITIONAL ADVOCATE GENERAL,
SHRI MANOJ BAGGA AND
SHRI RAM LAL THAKUR
AND SHRI SUNNY DHATWALIA,
ASSISTANT ADVOCATE GENERALS,
FOR THE RESPONDENT-STATE**

**MS. NARVADA, ADVOCATE
AS LEGAL AID COUNSEL FOR THE**

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VICTIM-MS. "S" (NAME WITHHELD)

This petition coming on for orders this day, the Court passed the following:

ORDER

FIR No.	Dated	Police Station	Sections
147/ 2020	25.12.2020	Fatehpur, District Kangra, H.P.	376, 342 & 506 of the IPC.

A 20 years girl, alleged victim of a sexual assault, has come up before this Court by filing the present petition under Section 482, Cr.PC seeking quashing of aforesaid FIR registered at her instance against the accused on the grounds that now they have decided to marry.

2. On 25.12.2020 based on the information of the victim 'S', the FIR was registered in Police Station Fatehpur for the offences of rape and criminal intimidation. The victim alleged that when she was walking on the road, then the accused approached her and offered her lift in his car. After some time, he offered her water and then in the car made drinks. When she was taking drinks, then the accused told her that he has made her video taking drinks and he is going to post it on facebook. After that, he took her somewhere in the darkness, threatened her and committed rape upon her. At around 2.30 a.m. he dropped her outside her home.

3. Now, the petitioner has filed the present petition supported by her affidavit stating therein that she has entered into compromise with the accused. Paragraphs 4 to 7 of the petition read as follows:-

“4. That now the complainant/victim has entered in a compromise, the copy of the compromise is annexed as Annexure P-4 with the accused and wants to settle the dispute as they (present petitioner and accused) want to marry each other, but the present case is barring the present petitioner to get married, as the accused is lodged in District & Open Air Jail, Dharamshala, pertaining to the present FIR.

5. That it is humbly submitted on behalf of the petitioner that she was and is in love with the accused and wanted to marry, when she felt that he is putting off then per force she lodged the complaint. She is major and matriculate and wanted to settle her with him. Parents of both sides are agreeable and consenting.

6. That now with the subsequent development of compromise which is result of their own and free volition of the parties, it would be seen that the trial would be just a futile exercise, involving the valuable time of the Ld. Court besides causing un-easiness in carrying a horse of no use and there is hardly any chance of conviction. The further proceedings in the trial would be unnecessary, without any success of the prosecution. The compromise so arrived is the act of free will and volition, without any pressure or fear.

7. That in view of the subsequent development of compromise, the indulgence of the Hon'ble Court is solicited for quashing the FIR and consequent challan which is at the very infancy/initial stage and also to save the valuable time of Ld. Trial Court.”

4. Although, the petitioner has been named in the memo of parties of the petition, but given the mandate of Section 228-A of IPC, the

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petitioner shall be referred as Ms “S” and her name is withheld, therefore, in the memo of parties typed in this judgment, her name is not mentioned.

5. Today, victim Ms “S” is present in the Court and is represented by the same counsel, who had filed her petition. Even the accused is also present in the Court. Learned counsel representing the petitioner states that both have come together to the Court.

6. In this petition, quashing of FIR is sought and strangely it is the victim who has filed the present petition. The petition is supported by the affidavit of petitioner. Given this, the Court felt it appropriate to appoint a Legal Aid Counsel for the petitioner-victim.

7. At the request of learned Legal Aid Counsel, the matter was ordered to be called after respite so as to enable learned Legal Aid Counsel to interact with the victim.

8. Ms. Narvada, learned Legal Aid Counsel, who was assisted by Ms. Kamlesh Kumari, Advocate, submit that they have interacted with victim in isolation. They have apprised the Court of their interaction. They further state that based on their interaction with the victim, this Court should pass an order that the admissions made by the victim in this petition should not be read as evidence in any Court and even should not be taken as admission on her behalf.

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9. Strangely, in the present petition, the accused has not been arraigned as a party. Thus, the accused has not taken any responsibility on his shoulder nor has he admitted any fact whatsoever.

10. This Court is of the considered belief that the victim of sexual offence cannot have any *locus standi* to approach a Court for quashing of FIR registered for the sexual assault which she had faced.

11. Without going into the details, based upon the statement of learned Legal Aid Counsel, Ms. Narvada, assisted by Ms. Kamlesh Kumari, Advocate, it is ordered that contents of this petition and the affidavit of the petitioner shall not be read as evidence before any Court or any proceedings whatsoever. Furthermore, learned Legal Aid Counsel shall also not be called for any purpose, including cross-examination or to contradict the petition.

12. This Court refrains and restrains from observing any further. There is a lot to read between the lines.

13. At this stage, learned counsel for the petitioner submits that he be given liberty to file a fresh petition on behalf of the accused.

14. Mr. Nand Lal Thakur, learned Additional Advocate General, assisted by Mr. Manoj Bagga, learned Assistant Advocate General, have strongly objected to such liberty and claim that no liberty should be given to the accused to file a fresh petition.

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15. Given above, there is no merit in the present petition and the same is dismissed accordingly with no liberty whatsoever.

Pending application(s), if any, also are closed.

(Anoop Chitkara)
Judge.

August 24 , 2021 (mamta/ks).

High Court of MP