

CRM-M-14701-2009 (O&M)

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In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision:13.08.2015

Rajinder Kaur Matharu and another ...Petitioners

Versus

State of UT, Chandigarh and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. ABS Wasu, Advocate,
for the petitioners.

Mr. Rajiv Sharma, Advocate,
for U.T. Chandigarh.

None for respondent No.2.

SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.111, dated 20.07.2006, under Sections 406, 498-A of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station Sector 19, Chandigarh and all consequential proceedings arising therefrom on the basis of compromise.

As per the communication by Judicial Magistrate First Class dated 14.11.2009, the compromise effected between the parties was opined to be genuine. The Judicial Magistrate First Class had recorded the statement of the mother of the complainant, wherein she had stated that as per

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the settlement arrived between the petitioners and her daughter, she (complainant) had received ₹4,50,000/-. Sunita Chaudhary, mother of the complainant Bhanu, has further stated that petitioner No.2 and respondent No.2 had already got a decree of divorce. She also placed on record the compromise deed and her affidavit that the complainant is residing in America and has executed a power of attorney in her favour.

None has appeared on behalf of the respondent No.2.

As per the Full Bench judgment of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of **Gian Singh vs. State of Punjab and another** 2012 (4) RCR (Crl.) 543, has held as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent

jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal

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proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

In the present case, parties have amicably settled their dispute and as per the mother of the complainant, respondent No.2-complainant is residing in America. In terms of the compromise effected between the parties, petitioners have paid ₹4,50,000/- to the complainant. Further, petitioner No.2 and respondent No.2 have got a decree of divorce. Apparently, the parties have settled their matrimonial dispute.

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, this petition is allowed. FIR No.111, dated 20.07.2006, under Sections 406, 498-A of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station Sector 19, Chandigarh and all the consequential proceedings, arising therefrom, are quashed.

August 13, 2015
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**(SABINA)
JUDGE**