

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

**Crl. Misc. No. M-14438 of 2015
Date of Decision: 23.12.2015.**

Nikhil Jindal and othersPetitioners

Vs.

State of Punjab and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Anmol Rattan Sidhu, Senior Advocate with
Mr. G.S.Bedi, Advocate
for the petitioners.

Mr. R.P.S.Sidhu, AAG, Punjab

Respondent No. 2 in person with
Mr. Ranjivan Singh, Advocate.

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SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 46 dated 28.3.2015, under Section 406, 498-A of the Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Mataur, District Sahibzada Ajit Singh Nagar (Mohali) (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise dated 18.4.2015 (Annexure P-2) effected between the parties.

Learned senior counsel for the petitioners has submitted that the parties have amicably settled their dispute. As per the compromise effected between the parties, petitioners were required to pay ₹ 80,00,000/- to respondent No. 2 towards full and final settlement of her claim. Out of the said amount,

₹ 50,00,000/- are meant for respondent No. 2 whereas ₹ 30,00,000/- are meant qua minor child Hanish Jindal. It has further been agreed between the parties that petitioner No. 1 shall relinquish 50% of his share in favour of respondent No. 2 qua plot Nos. B-340, B-341, B-342 and B-343. Petitioner No. 1 has already executed the transfer deeds in this regard. It has further been agreed between the parties that custody of the minor child shall remain with respondent No. 2. Learned senior counsel has further submitted that out of the agreed amount, ₹ 55,00,000/- have already been paid to respondent No. 2. Learned senior counsel for the petitioners has further submitted that he has handed over a draft in the sum of ₹ 25,00,000/- (photocopy has been placed on record) to the counsel for respondent No. 2 and the same be handed over to respondent No. 2 on 8.1.2016 before the Trial Court in proceedings under Section 13-B of the Hindu Marriage Act, 1955 ('Act' for short).

Respondent No. 2 is present in person and has admitted the factum of compromise between the parties and has stated that she has no objection if the FIR in question is ordered to be quashed. Respondent No. 2 has further submitted that she has no objection if the draft in the sum of ₹ 25,00,000/- handed over by the counsel for the petitioners to her counsel, today, is kept by her counsel and handed over to her on 8.1.2016 when the case is listed before the Trial Court in proceedings under Section 13-B of the Act. She has also tendered on record her affidavit in this regard.

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 pre-dominatingly 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 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.”

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. 46 dated 28.3.2015, under Section 406, 498-A IPC, registered at Police Station Mataur, District Sahibzada Ajit Singh Nagar (Mohali) (Annexure P-1) and all the consequential proceedings, arising therefrom, are quashed.

Parties shall remain bound by the terms of compromise/their statements made today.

**(SABINA)
JUDGE**

December 23, 2015
Gurpreet