

In the High Court of Punjab and Haryana at Chandigarh

Crl.Misc. M No.18131 of 2014

Date of decision: 16.01.2015

Rohit Malhotra and another

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE

Present: Mr.Naveen Sharma,, Advocate,
for the petitioners.
Mr.K.S.Aulakh,Assistant Advocate General,Punjab
Respondents No. 2 in person along with
Mr. Akashdeep Batra,Advocate.

SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure for quashing FIR No. 156 dated 24.12.2013 (Annexure P-1), under Sections 323/356/506/34 of the Indian Penal Code ('IPC' for short), registered at Police Station Daba Ludhiana Disatrick Ludiana and all subsequent proceedings arising therefrom in view of the compromise (Annexure P-2) arrived at between the parties.

Learned counsel for the petitioners has submitted that the FIR in question is a result of matrimonial discord between the parties.

Rupali Malhotra is wife of Rohit Malhotra. Due to some matrimonial discord between the parties, FIRs were lodged by the parties

against each other. However, now, the parties have amicably settled their dispute.

Respondent Nos 2 and 3, who are present in person along with their counsel, have admitted the factum of compromise (Annexure P2) and have submitted that they have no objection, in case the FIR is ordered to be quashed. They also tendered their affidavits 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-dominantly 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 these proceedings to continue.

Accordingly, the present petition is allowed. FIR No. 156 dated 24.12.2013 (Annexure P-1), under Sections 323/356/506/34 IPC, registered at Police Station Daba, Ludhiana District Ludhiana and all the subsequent proceedings, arising therefrom, are quashed.

**(SABINA)
JUDGE**

January 16, 2015
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