

**CRM-M-2101-2015**

**[1]**

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**In the High Court of Punjab and Haryana at Chandigarh.**

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**Date of Decision: 02.11.2015**

Hardeep Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

Present: Mr. A.K. Bura, Advocate,  
for the petitioner.

Mr. A.S. Sidhu, AAG, Punjab.

None for respondent No.2.

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**SABINA, J.**

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.174 dated 05.06.2012, under Sections 498-A, 323 and 506 of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station Zirakpur, District Sahibzada Ajit Singh Nagar (Punjab) and all consequential proceedings arising therefrom on the basis of compromise.

At the time of issuance of notice of motion, parties were directed to appear before the Area Magistrate for recording of their statements regarding compromise effected between the parties. As per the report of the Magistrate,

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complainant had failed to appear before the Area Magistrate.

Learned counsel for the petitioner has submitted that the parties had amicably settled their matrimonial dispute. Petitioner and respondent No.2 had filed a petition under Section 13(B) of the Hindu Marriage Act, 1955 seeking divorce on the basis of mutual consent.

Annexure P-5 is the statement of respondent No.2 recorded in proceedings under Section 13(B) of the Act on 10.12.2014.

On 22.07.2015, respondent No.2 made the following statement before the Court in proceedings under Section 13(B) of the Act (Certified copy has been placed on record by the learned counsel for the petitioner):-

“My marriage with petitioner No.1 Hardeep Singh was solemnized on 4.12.05 according to Sikh Rites and ceremonies at Delhi and after the marriage we resided together as wife and husband and cohabited with each other at Baltana, Tehsil Dera Bassi. Out of our wedlock, one male child namely Harmeet Singh was born. After that, due to differences in nature and temperament between myself and my wife, we are not able to live together as wife and husband and started residing separately from each other since June, 2012 since then we have not

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cohabited with each other during said above said separation period. Our parents and relatives with the help of respectable made every possible effort to reconcile the matter, but, of no use. The dispute has been mutually settled through compromise between us to the tune of Rs.3,00,000/-. Out of which I have received Rs.1,50,000/- on 10.12.14 from petitioner no.1 towards my and my minor child maintenance, permanent alimony, present, past and future and today I have received remaining amount of Rs.1,50,000/- in cash from petitioner no.1 on account of my Ishtridhan, past, present and future alimony and maintenance of my minor child. We have also mutually decided that the custody of minor child will remain with me (Daljeet Kaur). Now, we have decided to get divorce by way of mutual consent. I have no objection if the FIR No.174 dated 5.6.2012, U/S 498-A, 323, 506 IPC, P.S. Zirakpur, registered against my husband may be quashed by the Hon'ble High Court. Now I have got the remaining amount and recorded in the compromise deed. There is no chance of any reconciliation between us. Hence, prayed that our marriage may kindly be dissolved by passing a decree of divorce by mutual consent.”

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Thus, from the above statement of respondent No.2, it is evident that parties had amicably settled their dispute. Respondent No.2 had made a statement that she would have no objection if the FIR in question is ordered to be quashed.

On the basis of the statements of the parties, the trial Court had passed judgment/decreed dated 22.07.2015 (Certified copies have been placed on record by the learned counsel for the petitioner) and had ordered that the dissolution of marriage of the parties by way of decree of divorce on the basis of mutual consent. Although, respondent No.2, has failed to appear before the Area Magistrate for recording of her statement in the present proceedings but from the statement of respondent No.2 recorded in the proceedings under Section 13(B) of the Act, it is evident that parties had amicably settled their dispute.

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.

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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

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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.174 dated 05.06.2012, under Sections 498-A, 323 and 506 IPC, registered at Police Station Zirakpur, District Sahibzada Ajit Singh Nagar (Punjab) and all the consequential proceedings, arising therefrom, are quashed.

**November 02, 2015**  
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**(SABINA)**  
**JUDGE**