

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

1. Crl. Misc. No. M-27252 of 2014 (O&M)
Date of Decision: 06.11.2015.

Neelam and othersPetitioners

Vs.

State of Punjab and anotherRespondents

2. Crl. Misc. No. M-29025 of 2015 (O&M)

Parmod Kaushal and anotherPetitioners

Vs.

State of Punjab and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Nitin Kumar, Advocate for
Mr. Sanjiv Gupta, Advocate
for the petitioners.

Mr. P.S.Bajwa, AAG, Punjab

Mr. Raman Mohinder Sharma, Advocate
for respondent No. 2.

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SABINA, J.

Vide this order, above mentioned two petitions would be disposed of as the petitioners have sought quashing of the orders dated 24.5.2014, 1.8.2014 and FIR No. 10 dated 5.3.2011, under Section 406, 498-A of the Indian Penal Code, 1860 ('IPC for short), registered at Police Station Women, Patiala and all the subsequent proceedings arising therefrom.

The case was sent to Mediation and Conciliation Centre at the request of the counsel for the parties. Parties have amicably settled their dispute. The compromise/settlement

between the parties on 6.10.2015 is duly signed by the complainant.

The terms of the compromise, agreed between the parties, read as under:-

a) *During pendency of the case before the Mediation Centre, both the parties entered into 'Panchayti Settlement' dated 26.08.2015. The copy of the same is enclosed herewith as Annexure-'A'. Both the parties have agreed to adhere the terms and conditions stated in the said compromise Annexure-'A', which has been signed by both the parties.*

b) *In addition to the terms of the settlement stated in Annexure-'A' dated 26.08.2015, both the parties have further agreed not to file any other case against each other/ their families/ extended families due to their matrimonial dispute.*

c) *Complainant-Mandeep Kaur has agreed not to raise any dispute with respect to the quashing petitions filed by husband-Parmod Kaushal and his sisters Neelam and others. She has further consented to give an affidavit if required in favour of the petitioners supporting quashing of the FIR No.10 dated 05.03.2011, Police Station Women Cell, Patiala.*

d) *Both the parties have further agreed not to interfere in each others peaceful life henceforth and lead their own independent respective lives without any kind of interference from each other.*

e) *Both the parties had entered into compromise*

Annexure-'A' dated 26.08.2015 and also the present compromise without any kind of pressure and with their own free will.

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, both the petitions are allowed. FIR No. 10 dated 5.3.2011, under Section 406, 498-A IPC, registered at Police Station Women, Patiala and all the consequential proceedings, arising therefrom, including orders dated 24.5.2014 and 1.8.2014 are quashed.

(SABINA)
JUDGE

November 06, 2015
Gurpreet