

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M No.32673 of 2014

Date of Decision:05.02.2015

Neeraj Hasija and others

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR.

**Present: Mr.Rajiv Trikha, Advocate,
for Mr.Amjad Khan, Advocate,
for the petitioners.**

**Mr.Anil Kumar Chahal, Deputy Advocate General,
Haryana, for respondent No.1-State.**

**Mr.Gaurav Gaur, Advocate,
for Mr.S.M.Sharma, Advocate,
for respondent No.2.**

MEHINDER SINGH SULLAR, J.(oral)

The contour of the facts & material, which needs a necessary mention for deciding the core controversy, involved in the instant petition and emanating from the record is that, initially in the wake of complaint of complainant-Swati Hasija, daughter of Goverdhan Bajaj(respondent No.2)(for brevity “the complainant”), a criminal case was registered against petitioners-accused-Neeraj Hasija son of Mukand Lal Hasija and his other relatives, vide FIR No.485 dated 20.09.2013(Annexure P-1), on accusation of having committed the offences punishable under Sections 323, 406, 498-A and 506 IPC, by the police of Police Station Ambala City.

2. During the course of investigation of the criminal case, good sense prevailed and the parties have amicably settled their matrimonial disputes, by way of compromise-deed dated 15.09.2014(Annexure P-2).

3. Having compromised the matter, the petitioners-accused have preferred the present petition, to quash the impugned FIR(Annexure P-1) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.P.C., *inter alia*, pleading that now with the intervention of respectables, the parties have amicably settled their matrimonial disputes, by means of pointed compromise-deed(Annexure P-2), in order to remove bitterness between them. They have redressed their grievances. They have already filed a joint-petition for dissolution of their marriage by mutual consent under Section 13-B of The Hindu Marriage Act(hereinafter to be referred as “the Act”). The complainant does not want to further pursue the matter. She has no objection, if the criminal case registered against the petitioners-accused, vide impugned FIR(Annexure P-1) is quashed, on the basis of compromise-deed. On the strength of aforesaid grounds, the petitioners-accused sought to quash the impugned FIR(Annexure P-1) and all other subsequent proceedings arising therefrom, in the manner depicted here-in-above.

4. During the course of preliminary hearing, the Magistrate, having the jurisdiction, was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise-deed(Annexure P-2), by virtue of order dated September 22, 2014 by this Court.

5. In compliance thereof, having recorded the statements of all

the concerned parties, the Magistrate has concluded vide his reports dated 12.11.2014 & 02.01.2015 that they have amicably settled their matrimonial disputes with their free will and without any kind of undue pressure or coercion.

6. Meaning thereby, it stands proved on record that the parties have amicably settled their matrimonial disputes, by way of compromise-deed(Annexure P-2). The factum of compromise is also reiterated in the reports of the Magistrate.

7. What cannot possibly be disputed here is that, the law with regard to the settlement of criminal disputes by means of amicable settlement between the parties is no more *res integra* and is now well-settled.

8. An identical question came to be decided by the Hon'ble Supreme Court in case **Gian Singh Versus State of Punjab and another**, 2012(4) RCR(Criminal) 543. Having interpreted the relevant provisions and considered a line of the judgments on the indicated points, it was ruled (para 57) 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 personnel 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.”

9. Sequelly, the same view was again(recently) reiterated by Hon'ble the Apex Court in case **Narinder Singh and others Versus State of Punjab and another**, 2014(2) R.C.R.(Criminal) 482.

10. Such, thus, being the legal position & material on record, now the short & significant question, though important, that arises for determination in this petition is, as to whether the present criminal prosecution against the petitioners deserves to be quashed in view of the compromise or not?

11. Having regard to the contentions of the learned counsel, to my mind, it would be in the interest and justice would be sub-served, if the parties are allowed to compromise the matter. Moreover, the learned counsel are *ad idem* that, in view of the settlement of disputes between the parties, the present petition deserves to be accepted in this context.

12. As is evident from the record that, in the instant case, with

the intervention of respectables and relatives, the parties have amicably settled their matrimonial disputes, by virtue of compromise-deed (Annexure P-2) with their free will and without any kind of coercion or pressure. They have redressed their grievances. They have already filed a joint-petition for dissolution of their marriage by mutual consent under Section 13-B of the Act. They want to live in peace and harmony in future in the society. The settlement is stated to be in the welfare, benefit and larger interest of the parties. The complainant does not want to further pursue the matter. She has no objection, if the criminal case, in question, is quashed, on the basis of compromise-deed. The factum and genuineness of the compromise between the parties is also reiterated by the Magistrate in his indicated reports.

13. Thus, it would be seen that since, the compromise is in the welfare and interest of the parties, so, there is no impediment in translating their wishes into reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in peace and to enjoy the life and liberty in a dignified manner. Therefore, to me, the ratio of the law laid down and the bench-mark set out by Hon'ble the Supreme Court in Gian Singh and Narinder Singh & others' cases(supra), “mutatis mutandis” is applicable to the facts of the present case and is the complete answer to the problem in hand. Sequel, the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case.

14. In the light of aforesaid reasons, the instant petition is accepted. Consequently, the impugned FIR No.485 dated 20.09.2013

(Annexure P-1) and all other subsequent proceedings arising therefrom, are hereby quashed. The petitioners-accused are accordingly discharged, from the indicated criminal case, on the basis of compromise-deed, subject to all just exceptions.

Needless to mention, in case, the petitioners fail to comply with the terms & conditions of the settlement/compromise-deed (Annexure P-2), then the prosecution/complainant would be at liberty, to move a petition for revival of the criminal prosecution.

February 05, 2015
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(**MEHINDER SINGH SULLAR**)
JUDGE