

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Crl. Misc. No. M-35523 of 2014

Date of decision : - 02.02.2015

Kanhi Ram @ Kanhiya Ram and others

...Petitioners

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR

Present: Mr. Karan Pathak, Advocate
for the petitioners.

Mr. Naveen Sheoran, D.A.G., Haryana
for the State.

Nemo for respondent No.2.

Mehinder Singh Sullar, J. (Oral)

The conspectus of the facts and material, culminating in the commencement, relevant for disposal of the instant petition and emanating from the record, is that, initially in the wake of complaint of complainant Kusum Lata daughter of Dharampal-respondent No.2 (for brevity “the complainant”), a criminal case was registered against petitioners-accused Kanhi Ram alias Kanhiya Ram and others, vide FIR No.272 dated 24.05.2014 (Annexure P-1), on accusation of having committed the offences punishable under Sections 498-A, 406 and 323 read with Section 34 IPC, by the police of Police Station City Palwal.

2. During the course of investigation of the criminal case, good sense prevailed and the parties have amicably settled their matrimonial

disputes, by means of compromise/affidavit dated 13.09.2014 (Annexure P-3).

3. Having compromised the matter, the petitioners 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.PC, *inter-alia*, pleading that initially the present case was registered against the accused on account of some misunderstanding. Now the misunderstanding has been removed and with the intervention of respectables, the parties have amicably settled their matrimonial disputes, by virtue of pointed compromise/affidavit (Annexure P-3). The complainant is now happily residing with her husband Kanhi Ram @ Kanhiya Ram (petitioner No.1) in her matrimonial home. They have redressed their grievances. They want to live in peace and harmony in future in the society. The complainant has no objection, if the criminal case registered against the petitioners, by way of impugned FIR is quashed. 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 described hereinabove.

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/affidavit (Annexure P-3), by means of order dated 16.10.2014, by this Court.

5. In compliance thereof, the concerned Magistrate, having recorded the statements of all the concerned parties, has concluded vide his report dated 21.11.2014 that they have amicably settled their matrimonial disputes. The compromise arrived between them is voluntarily, genuine, without any fear or coercion.

6. Meaning thereby, it stands proved on record that the parties have amicably settled their matrimonial disputes, by virtue of compromise/affidavit dated 13.09.2014 (Annexure P-3). The factum of compromise is also reiterated in the indicated report of the Magistrate.

7. What cannot possibly be disputed here is that, the law with regard to the settlement of such matrimonial 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 pointed 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.”

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

9. Such thus being the legal position and the material on record, now the short and 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?

10. 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 instant petition deserves to be accepted in this context.

11. As is evident from the record that, initially the present case was registered against the accused on account of some misunderstanding. Now the misunderstanding has been removed and with the intervention of respectables, the parties have amicably settled their matrimonial disputes, by virtue of pointed compromise/affidavit (Annexure P-3). The complainant is now happily residing with her husband Kanhi Ram @ Kanhiya Ram (petitioner No.1) in her matrimonial home. They have redressed their grievances. They want to live in peace and harmony in future in the society. The compromise is stated to be in the benefit, welfare and larger interest of the parties. The complainant has no objection, if the criminal case registered against the petitioners, by way of impugned FIR is quashed. The factum of compromise is also reiterated in the indicated report of the Magistrate.

12. Therefore, 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. Hence, to me, the ratio of the law laid down and the bench-mark set out by the Hon'ble Supreme Court in **Gian Singh's and Narinder Singh's and others cases (supra)**, “mutatis mutandis” is attracted to the facts of the present case and is the complete answer to the problem in hand. Likewise, the impugned FIR (Annexure

P-1) and all other consequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case.

13. In the light of the aforesaid reasons, the instant petition is accepted. Consequently, the impugned FIR No.272 dated 24.05.2014 (Annexure P-1) and all other subsequent proceedings arising therefrom, are hereby quashed. The petitioners are accordingly discharged, from the indicated criminal case, on the basis of compromise, subject to all just exceptions.

14. Needless to mention that, in case, petitioner No.1 failed to nicely keep the complainant as his wife, in that eventuality, the prosecution/complainant would be at liberty to move a petition for revival of the instant criminal prosecution.

February 02, 2015
naresh.k

(Mehinder Singh Sullar)
Judge