

245 In the High Court of Punjab and Haryana at Chandigarh

CRM-M-36524-2014
Date of decision: 19.02.2015

Arun Kumar and anotherPetitioners

Versus

State of Punjab and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Bhupinder Ghai, Advocate
for the petitioners.
Mr.K.S.Aulakh, AAG, Punjab.

Mr. M.S.Sidhu, Advocate
for respondent No.2.

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SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.25 dated 12.03.2009, under Sections 406 and 498-A of the Indian Penal Code, 1860 ('IPC' – for short), registered at Police Station Division No.3, Ludhiana, and all subsequent proceedings arising therefrom on the basis of compromise (Annexure P-1).

Learned counsel for the petitioners as well as counsel for respondent No.2 have submitted that now with the intervention of relatives and friends, the parties have amicably settled their dispute.

Respondent No.2 is present in person and has admitted that the factum of compromise between the parties and has stated that she has no objection, if the FIR in question is ordered to be quashed. She has tendered her affidavit on record 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-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.”

FIR in question was registered on account of matrimonial discord between the parties. However, the parties have amicably settled their dispute, continuation of criminal proceedings against the petitioner would be nothing but an abuse of process of law.

Accordingly this petition is allowed. FIR No.25 dated 12.03.2009, under Sections 406 and 498-A of the Indian Penal Code, 1860 ('IPC' – for short), registered at Police Station Division No.3, Ludhiana, and all subsequent proceedings arising therefrom are quashed.

During the course of arguments, it has further transpired

that dowry articles, which were recovered during the investigation of the case, are lying in the custody of police of Police Station Division No.3, Ludhiana City.

Learned counsel for the petitioners has submitted that the petitioners have no objection, if the same are released to respondent No.2.

Accordingly, it is directed that dowry articles recovered during investigation lying with the police of Police Station Division No.3, Ludhiana City, be released to respondent No.2-Ritu Kashyap forthwith.

**(SABINA)
JUDGE**

February 19, 2015

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