

CRM-M-44290-2014

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In the High Court of Punjab and Haryana at Chandigarh.

CRM-M-44290-2014 (O&M)
Date of Decision: 08.09.2015

Harbhajan Kaur and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sukhjit Singh, Advocate, for
Mr. K.S. Dadwal, Advocate, for the petitioners.

Mr. J.S. Sekhon, AAG, Punjab.

Mr. Mandeep K. Dhot, Advocate, for
Ms. Neha Jain, Advocate, for respondent No.2.

Respondent No.2 in person.

SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.63 dated 03.05.2013, under Sections 376 and 420 of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station Chabbewal, District Hoshiarpur and all consequential proceedings arising therefrom including order dated 16.11.2013 on the basis of compromise.

Learned counsel for the petitioners and respondent No.2 have submitted that in fact the FIR in question was a

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result of misunderstanding between the parties. Now respondent No.2 has performed marriage with petitioner No.5 and they are living together happily as husband and wife.

Vide order dated 14.05.2015, the trial Court was directed to record the statements of the parties and send its report with regard to genuineness of the compromise effected between the parties.

In pursuance to the said order, the trial Court, after recording the statements of the parties, has reported that the compromise effected between the parties was out of their free will and was valid/genuine.

Respondent No.2 is present in person alongwith her counsel and has admitted the factum of her marriage with petitioner No.5 and has stated that she has no objection, if the FIR in question is ordered to be quashed.

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.”

In the present case, FIR was registered qua commission of offence punishable under Section 376 IPC. In normal circumstances, FIR under Section 376 IPC is not quashed on the basis of compromise. However, the facts of the present case are peculiar. In fact there arose some misunderstanding between the complainant and petitioner No.5 and due to this reason FIR in question was lodged by respondent No.2. However, now respondent No.2 has performed marriage with petitioner No.5. In case the criminal proceedings are allowed to continue, it would adversely effect the matrimonial life of respondent No.2. Hence, continuation of criminal proceedings against the petitioner would not serve any useful purpose.

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Accordingly, this petition is allowed. FIR No.63 dated 03.05.2013, under Sections 376 and 420 IPC, registered at Police Station Chabbewal, District Hoshiarpur and all the consequential proceedings, arising therefrom, including order dated 16.11.2013, are quashed.

September, 08, 2015
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(SABINA)
JUDGE