

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

Crl. Misc. No. M-9005 of 2013 (O&M)
Date of Decision: 09.01.2015.

Balbir Kaur and othersPetitioners

Vs.

State of Punjab and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. P.S.Ahluwalia, Advocate
for the petitioners.

Mr. Deep Singh, AAG, Punjab.

Mr. Bhanu Pratap Singh, Advocate
for respondents No. 2 and 3.

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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. 157 dated 16.6.2006, under Section 406, 498-A of the Indian Penal Code, 1860 ('IPC' for short), registered at Police Station City Hoshiarpur, District Hoshiarpur (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise effected between the parties.

Learned counsel for the petitioners as well as counsel for respondents No. 2 and 3 have submitted that the parties have amicably settled their dispute.

Vide order dated 2.5.2013, 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, Trial Court after recording the statements of the parties has reported that the compromise effected between the parties was valid.

Statement of respondent No. 2-Jarnail Singh, recorded by the Trial Court, reads as under:-

“Stated that I have compromised the matter with accused persons namely Balbir Kaur, Inderjit Kaur, Kulwant Singh and Amanpreet Singh in FIR No. 157 dated 16.6.2006 registered on my complaint made to SSP, registered at Police Station, City Hoshiarpur. Now I do not want to proceed further against any of the accused. My daughter Prabhjot Kaur have already filed divorce petition against her husband which is now fixed for 5.6.2013 and she has already received full and final amount towards her past, present and future maintenance and also alimony as well as expenses spent on her marriage. She had received Rs. Sum of Rs. 6,50,000/- from accused when the compromise was arrived at and today she has received remaining amount of Rs. 6,50,000/- in shape of demand draft No. 703906 of Punjab National Bank Jalandhar Road, Hoshiarpur. Now nothing is due. I have no objection if the FIR against all the accused is quashed.”

Statement of respondent No. 3-Prabhjot Kaur, recorded by the Trial Court, reads as under:-

“Stated that I have compromised the matter with accused persons namely Balbir Kaur, Inderjit Kaur, Kulwant Singh and Amanpreet Singh in FIR No. 157

dated 16.6.2006 registered on the complaint of my father in Police Station, City Hoshiarpur. Now I do not want to proceed further against any of the accused. I have already filed divorce petition against my husband which is now fixed for 5.6.2013 and I have already received full and final amount towards my past, present and future maintenance and also alimony as well as expenses spent on her marriage. I had received Rs. Sum of Rs. 6,50,000/- from accused when the compromise was arrived at and today I have received remaining amount of Rs. 6,50,000/- in shape of demand draft No. 703906 of Punjab National Bank Jalandhar Road, Hoshiarpur. Now nothing is due. I have no objection if the FIR against all the accused is 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.

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 amicably settled their dispute and respondents No. 2 and 3 have made statements that they have no objection if the FIR in question is quashed qua all the accused, no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, this petition is allowed. FIR No. 157 dated 16.6.2006, under Section 406, 498-A IPC, registered at Police Station City Hoshiarpur, District Hoshiarpur (Annexure P-1) and all the consequential proceedings, arising therefrom, qua all the accused, are quashed.

**(SABINA)
JUDGE**

January 09, 2015
Gurpreet