

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

CRM-M No.7042 of 2015 (O&M)

Date of Decision: 04.09.2015

Sagar Passi

..... Petitioner

Vs.

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Mandeep S. Sachdev, Advocate for the petitioner/husband.

Ms. Rimplejeet Kaur, Assistant Advocate General, Punjab
for respondent No.1/State along with ASI Joginder Singh.

Ms. Neeru Bansal, Advocate for
Mr. Karanvir, Advocate for respondent No.2/complainant.

JASWANT SINGH, J. (Oral)

Present petition under Section 482 Cr.P.C. has been filed by the petitioner/husband for quashing of FIR No.5 dated 29.03.2014, under Sections 406, 498-A and 120-B, IPC, registered with Police Station N.R.I., Ludhiana, District Ludhiana (**Annexure P-1**) and the subsequent proceedings on the basis of settlement dated 08.01.2015 (**Annexure P-3**) arrived at between the parties.

Both the husband-Sagar Passi and wife Karishma Anand are Non Resident Indians and the marriage was solemnized on 12.10.2011 at Ludhiana. Subsequently, due to the matrimonial dispute, the aforesaid FIR was lodged by the brother of the wife, namely, Abhishek Anand.

It is not in dispute that in the petition for quashing of the FIR filed by the parents-in-law of the wife, the parties were referred to the Mediation Centre of this Court. It is also not in dispute that a written comprehensive settlement was arrived at between the parties vide a deed dated 08.01.2015

(Annexure P-3). In terms of the said compromise, husband and wife had sought a decree of divorce by way of mutual consent.

At the time of hearing today, learned Counsel along with the parties including the wife, who are present in the Court, state that in terms of the settlement, a decree of divorce has been granted on 02.09.2015. The balance amount of Rs.8,75,000/- to be paid to Karishma Anand has been tendered by way of a cross-cheque dated 04.09.2015. The same has been accepted by Karishma Anand. A photocopy of the same has been retained for the purpose of record.

It appears that there is some overwriting. In case, there is some hindrance in realizing the said amount, the petitioner undertakes to replace the cheque on the request of Karishma Anand.

Learned State Counsel, on instructions from ASI Joginder Singh, concedes that no challan in this case has yet been presented.

Hon'ble Supreme Court in **(2003) 4 SCC 675, B.S Joshi & Others Vs. State of Haryana & Another** has made it explicitly clear in para 15 of its judgment that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or effect the powers under Section 482 of the Code.

A Full Bench of this Court in **Kulwinder Singh and others v. State of Punjab and another, 2007(3) RCR (Criminal) 1052** has held that this Court, in appropriate cases, while exercising powers under Section 482 Cr.P.C., may quash an FIR disclosing the commission of non compoundable offences. The relevant extracts read as under:-

“ The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C., which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court

has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice. ”

Hon'ble Apex Court in another case in **J.T 2008(9) S.C 192, Nikhil Merchant Vs. Central Bureau of Investigation & Another** while relying upon its decision in **B.S. Joshi's case (supra)** has also held that in view of the compromise arrived at between the parties, the technicalities should not be allowed to stand in the way in the quashing of criminal proceedings and the continuance of the same after compromise between the parties would be a futile exercise.

Similar views were expressed by Hon'ble the Apex Court in **Madan Mohan Abot v. State of Punjab, 2008(4) SCC 582**, the relevant extract of which is as under:-

“ We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law. ”

Keeping in view the above settled legal position and taking into account the fact that both the parties have desired to live in peace and harmony and carry on with their lives without any ill will or rancour by resolving their differences and entering into the aforesaid compromise, it is evident that it is a fit case where there is no impediment in the way of the Court to exercise its inherent powers under Section 482 Cr.P.C., for quashing of the FIR in the interest of justice.

Accordingly, the present petition is allowed and FIR No.5 dated 29.03.2014, under Sections 406, 498-A and 120-B, IPC, registered with Police

Station N.R.I., Ludhiana, District Ludhiana (**Annexure P-1**) and all subsequent proceedings arising therefrom, are quashed.

September 04, 2015
Gagan

(JASWANT SINGH)
JUDGE