

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

CRM-M No 24090 of 2016

Date of decision :30.08.2016

Sukhdev Singh alias Sukhdev Kumar

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MS.JUSTICE RITU BAHRI

Present: Mr.Manmeet Singh Rana, Advocate for the petitioner.
Mr.J.S.Riar, AAG, Punjab..

RITU BAHRI, J. (Oral)

This is a petition for the grant of anticipatory bail to the present petitioner in case bearing FIR No.0006 dated 13.01.2016, under Sections 354, 324, 323, 506, 148, 149 IPC, registered at Police Station Phagwara City, District Kapurthala.

The brief facts, in a nutshell, are that the FIR was registered on the basis of statement made by respondent No.2-Kanchan Devi alleging therein that on 10.01.2016 at around 9.30 p.m. she along with her husband Shivji Pandey (respondent No.3) was going to their house in a rickshaw and when they reached near the house, an Innova car was parked in the street belonging to the petitioner. When the rickshaw crossed that car, rear tyre of scratched it. Upon this, son of the petitioner came there and had given beatings to the rickshaw puller. In the meantime, his father i.e. petitioner

Sukhdev Singh alias Sukhdev Kumar, mother, uncle and elder brother also

came there. The petitioner caught hold of her from her *Jamper(kurti)* and torn it and pulled her down from the rickshaw. They also insulted by catching from her chest. Thereupon, Dharamvir son of Resham Singh also gave blows by some sharp edged thing, like, *danda*(stick). They raised hue and cry which attracted some people at the spot and the assailants went to their house holding threats to them. Then they got registered the present FIR against the present petitioner and his accomplices.

During the pendency of the trial, with the intervention of the respectables of the locality the dispute between the petitioner and respondents No.2 and 3 has been compromised. A compromise deed dated 28.01.2016 (Annexure P-2) has also been annexed with the petition.

The compromise arrived at on 28.1.2016 was tested in view of the report dated 30.7.2016 submitted by Sub Divisional Judicial Magistrate, Phagwara, by which, it was affirmed that the dispute between the petitioner along with co-accused, namely, Sukhwinder Kaur, Randeep @ Sunny, Lakha @ Gurpreet and Dharamveer and respondent Nos.2 and 3 was settled amicably and voluntarily. Respondents No.2 and 3, in unambiguous terms spoke that they has no grudge against the petitioner and his accomplices and that they have no objection if the above said FIR is quashed. A joint statement of petitioner and his co-accused was also recorded affirming the compromise. In view of the statements of the parties, the court is satisfied that the compromise is valid and genuine one.

The question for consideration before this Court that in the petition filed under Section 438 Cr.P.C, can this Court quash the F.I.R

treating the same under Section 482 Cr.P.C, on the ground that the matter stands compromised between the parties.

To answer this question, reference at this stage can be made to a judgment of Hon'ble the Supreme Court in a case of ***B.S. Joshi & others vs. State of Haryana and another, 2003(2) R.C.R (Criminal) 888*** wherein it has been held that if the partners settled their dispute, the High Court can quash the proceedings in exercise of inherent power under Section 482 Cr.P.C etc. Section 320 Cr.P.C does not limit the power under Section 482 Cr.P.C. It is the duty of the Court to encourage genuine settlement of disputes. In para 11, 12, 13 and 14, it has been observed as under:-

•In *Madhavrao Jiwajirao Scindia & Ors. v. Sambhajirao Chandrojirao Angre & Ors. [(1988) 1 SCC 692]*, it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

12. The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

13. The observations made by this Court, though in a slightly different context, in ***G.V. Rao v. L.H.V. Prasad & Ors. [(2000) 3SCC 693]*** are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes

suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

14. There is no doubt that the object of introducing Chapter XXA containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code."

Similar view has been expressed by Hon'ble the Supreme Court in a case of ***Gian Singh vs. State of Punjab and anr., 2012 (4) RAJ 549*** wherein also it has been held that proceedings may be quashed having overwhelmingly and pre-dominantly civil flavour such as offence arising from commercial financial, mercantile, civil, partnership or such like transaction or the offences arising out of matrimony relating to dowry etc of the family disputes where the wrong is basically private or personal in nature and the parties have resolve their entire dispute.

Keeping in view the above judgments and the fact that the matter stands compromised between the parties, the present petition be treated as a petition under Section 482 Cr.P.C and accordingly, FIR No.0006 dated 13.01.2016, under Sections 354, 324, 323, 506, 148, 149 IPC, registered at Police Station Phagwara City, District Kapurthala along with all consequential proceedings arising therefrom qua the petitioner and his accomplices is quashed.

The petition stands disposed of accordingly.

Needless to say that the interim protection for bail granted by this Court vide order dated 19.7.2016 is rendered infructuous in the light of the fact that the entire proceedings arising of the aforesaid FIR are already quashed.

(RITU BAHRI)
JUDGE

August 30, 2016
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No