

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

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Criminal Misc. No. M-36527 of 2014

Raghubir Singh and others

....Petitioners

versus

State of Punjab and another

...Respondents

AND

Criminal Misc. No. M-42210 of 2015

Sarojani Devi and others

....Petitioners

versus

State of Punjab and another

...Respondents

Date of decision: February 15, 2016

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

Present: Mr. Ravi Sharma, Advocate for the petitioners.

Mr. Rupam Aggarwal, DAG, Punjab.

Mr. Sherry K. Singla, Advocate for respondent No.2.

DAYA CHAUDHARY, J.(Oral)

This order of mine shall dispose of **Criminal Misc.**
No.36527 of 2014 titled as 'Raghubir Singh and others vs. State of

Punjab and another' and **Criminal Misc. No. M-42210 of 2015** titled as 'Sarojani Devi and others vs. State of Punjab and another' as both the petitions have been filed for quashing of FIR No.2 dated 13.05.2014 registered under Sections 406, 498-A, 312, 34 of the Indian Penal Code at Police Station NRI Patiala and other proceedings arising therefrom.

Criminal Misc. No.36527 of 2014 has been filed by petitioners-accused, namely, Raghubir Singh, Sarojani Devi, Sampuran Singh and Deep Mala Negi. Petition qua petitioners No.1. and 2 was dismissed as withdrawn vide order dated 25.11.2014,.

On the other hand, **Criminal Misc. No.M-42210 of 2015** has been filed by petitioners-accused, namely, Sarojani Devi, Raghubir Singh and Chanden Singh Sindhwal.

The aforesaid FIR was registered on the basis of complaint made by Sangeeta Sindhwal-respondent No.2. As per the allegations levelled in the FIR, her marriage was solemnized with accused-Chanden Singh Sindhwal on 14.01.2010 and much amount was spent on the marriage by her parents. But still her in-laws were not happy with the marriage and she was harassed by her in-laws as well as by her husband. Demand of dowry was also raised. Chanden Singh Sindhwal is her husband, Raghubir Singh is her father-in-law, Sarojani Devi is her mother-in-law, Deep Mala Negi is her sister-in-law and Sampuran Singh is her brother-in-law.

Learned counsel for the petitioners submits that during pendency of the proceedings, the matter was referred to Mediation and

Conciliation Centre of this Court vide order dated 18.08.2015 and it was settled by way of settlement deed dated 09.10.2015 which was reduced into writing. Both the parties undertook to abide by all the terms and conditions mentioned in the settlement deed. Learned counsel also submits that in compliance of said settlement, two Demand Drafts bearing Nos.290137 and 526335 dated 10.02.2016 amounting to Rs.3,00,000/- and Rs.3,25,000/- respectively in favour of the complainant-respondent No.2 have been handed over to the father of the complainant, who is present in the Court and he has been identified by the counsel appearing for the complainant. Learned counsel also submits that gold ornaments as mentioned in Para No.6 (i) of the settlement deed have also been handed over to the father of the complainant and the same has been received by him. Learned counsel also submits that all the terms and conditions settled between the parties have been complied with and both the parties have undertaken not to violate the same.

Learned counsel for complainant-respondent No.2 submits that the father of respondent No.2 is having power of attorney of the complainant and he has no objection in quashing of the FIR and other proceedings arising therefrom. Learned counsel has also affirmed the statements made by learned counsel for the petitioners.

It is a matrimonial dispute which has been settled by way of compromise and the parties have decided to stay apart. The complainant has no objection in quashing of the FIR and other

proceedings arising therefrom. The complainant does not want to proceed or initiate with any criminal proceedings against the accused persons. Moreover, this Court has inherent powers under Section 482 Cr.P.C. to quash the criminal proceedings even in non-compoundable offences on the basis of compromise.

A larger Bench of this Court in ***Kulwinder Singh vs State of Punjab 2007(3) RCR Criminal 1052*** has also observed that the proceedings can be quashed even in case of non-compoundable offences, in case, the compromise is there between the parties. The observations of this Court are reproduced as under :-

“ Criminal Procedure Code, Section 320(9) – Criminal Procedure Code, Section 482 – Compounding of offences which are non-compoundable under Section 320(9) Cr.P.C. - Offence non-compoundable, but parties entering into compromise-High Court has power under Section 482 Cr.P.C 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.”

The Hon'ble Apex court in ***Gian Singh vs. State of Punjab and another 2012(4) RCR (Criminal) 543*** has laid down that compounding of offence and quashing of criminal proceedings are two separate things and are not interchangeable. It has also been mentioned that two powers are distinct and different but ultimate consequence may be the same. It has also been held that where the

offender and victim have settled their dispute, the High Court in exercise of its inherent power under Section 482 Cr.P.C is competent to quash the criminal proceedings even in case of non-compoundable offences. No doubt, the powers under Section 482 Cr.P.C are to be invoked sparingly and not when the offences are heinous, serious, of mental depravity or like murder, rape, dacoity etc. The Apex Court has held as under :-

“ It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceedings or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim

has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crimedoeer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.”

The aforesaid decision in ***Gian Singh's case (supra)*** finds support with the view taken by a five-Judge Bench of this Court in ***Kulwinder Singh's case (supra)***.

Keeping in view the fact that the complainant has no objection in quashing of the FIR and other criminal proceedings arising therefrom, no purpose would be served, in case, the criminal proceedings are continued as the complainant is not going to support the case of the prosecution. Continuation of proceedings would be a futile exercise as the complainant is not interested to take any action against the accused persons. It would not only be mere wastage of the valuable time of the Court but it would also not be in the interest of both the parties.

Accordingly, both the petitions are allowed and FIR No.2 dated 13.05.2014 registered under Sections 406, 498-A, 312, 34 of the Indian Penal Code at Police Station NRI Patiala as well as other proceedings arising therefrom qua petitioners, namely, Sampuran Singh and Deep Mala Negi, Sarojani Devi, Raghubir Singh and Chanden Singh Sindhwal are hereby quashed.

February 15, 2016
sonia gugnani

(DAYA CHAUDHARY)
JUDGE