

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

284

**Criminal Misc. No. M-38823 of 2015
Date of decision: January 28, 2016**

Lakhwinder Singh

....Petitioner

versus

State of Punjab and another

...Respondents

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. Shivam Grover, Advocate for
Mr. Pardeep Bajaj, Advocate for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

Mr. Tarun Jhatta, Advocate for respondent No.2.

DAYA CHAUDHARY, J.(Oral)

The present petition has been filed under Section 482 Cr.P.C. by petitioner, namely, Lakhwinder Singh for quashing of FIR No.126 dated 26.09.2012 registered under Sections 498-A of the Indian Penal Code at Police Station Division No.4, District Ludhiana (Annexure P-1) and other proceedings arising therefrom on the basis of compromise dated 29.10.2015 (Annexure P-2) arrived at between the parties.

Brief facts of the case are that the marriage of the petitioner was solemnized with respondent No.2 on 28.10.2003 and subsequently, some differences/misunderstanding arose between them. On the basis of complaint made by respondent No.2, the aforesaid FIR was registered against the petitioner.

Learned counsel for the petitioner submits that during pendency of the proceedings, with the intervention of the relatives and respectables of the village, the petitioner and respondent No.2 have settled their dispute amicably and now they are residing together as husband and wife. Learned counsel also submits that the complainant has no objection in quashing of the FIR and other proceedings arising therefrom.

Learned counsel for respondent No.2 has affirmed the factum of compromise arrived at between the parties.

Notice of motion was issued on 18.11.2015 and the parties were directed to appear before the trial Court for recording of their statements with regard to compromise. The trial Court was also directed to send a report as to whether the compromise arrived at between the parties is genuine and without any pressure from either side or not.

In response thereto, the parties have appeared before learned Judicial Magistrate Ist Class, Ludhiana and their statements were recorded. A report has also been sent by the Judicial Magistrate Ist Class, Ludhiana, wherein the factum of compromise has been

affirmed. It has also been mentioned therein that the dispute between the parties has been settled by way of compromise and the complainant has no objection in quashing of the FIR and other proceedings arising therefrom. It has also been mentioned therein that the parties to the dispute have specifically stated in their respective statement that the compromise arrived at between them is as per their free will and without any pressure from either side and now they do not want to proceed with the proceedings any further.

Since it is a matrimonial dispute which has been settled by way of compromise and the parties are residing together as husband and wife and the complainant has no objection in quashing of the FIR and other proceedings arising therefrom.

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 statements of the parties as well as the fact that now the complainant has no objection in quashing of the criminal proceedings arising therefrom. Continuation of proceedings would be a futile exercise as the complainant is not going to support the case of the prosecution. It would not only be mere wastage of the valuable time of the Court but it would also not be in the interest/welfare of both the parties. 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.

Accordingly, this petition is allowed and FIR No.126 dated 26.09.2012 registered under Sections 498-A of the Indian Penal Code at Police Station Division No.4, District Ludhiana (Annexure P-1) as well as other proceedings arising therefrom qua petitioner, namely, Lakhwinder Singh are hereby quashed.

January 28, 2016
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(DAYA CHAUDHARY)
JUDGE