

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

**Criminal Misc. No. M-9622 of 2014
Date of decision: 20.01.2016**

Rajiv Sharma and another

..Petitioners

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes**
- 2. To be referred to reporters or not? Yes**
- 3. Whether the judgment should be reported in the Digest? Yes**

Present: Mr. Sunil Garg, Advocate
for the petitioners.

Ms. Ritu Punj, Addl. AG, Punjab
for respondent No.1 – State.

Mr. Digvijay Singh, Advocate
for respondent No.2.

Daya Chaudhary, J.

Petitioners, namely, Rajiv Sharma and Kanta Rani, faced trial in case FIR No.179 dated 16.04.2008 registered under Sections 406 and 498-A of Indian Penal Code at Police Station Kotwali, Patiala and were convicted for said offences by the trial Court. Thereafter, aggrieved against the said judgment of conviction and order of sentence, an appeal was filed by the petitioners before Additional Sessions Judge, Patiala, which is still pending. During pendency of the appeal, a compromise has been effected between the parties and a petition under Section 13-B of the Hindu Marriage Act, 1955 (for

short 'the Act') was filed and divorce was granted on mutual consent.

The present petition has been filed under Section 482 Cr.P.C. for quashing of aforesaid FIR and other proceedings arising therefrom on the basis of compromise dated 11.11.2013 (Annexure P-2).

Learned counsel for the petitioners submits that the dispute between the parties has been settled by way of compromise arrived at during pendency of the appeal. The complainant-respondent No.2 has no objection in quashing of the aforesaid FIR and other proceedings. Learned counsel further submits that on the basis of compromise arrived at between the parties, both the parties started to live separately and a petition under Section 13-B of the Act was filed and divorce was granted on mutual basis. Learned counsel also submits that the complainant-wife has received amount in lump-sum from her husband as per settlement. She has also submitted an affidavit stating therein that she has no objection in quashing of the FIR and other proceedings. Learned counsel has also relied upon judgments of Hon'ble the Supreme Court in **Dr. Arvind Barsaul etc. vs. State of Madhya Pradesh and another, 2008(2) RCR (Criminal) 910, Manohar Singh vs. State of Madhya Pradesh and another, 2014(3) RCR (Criminal) 865, Ishwar Singh vs. State of Madhya Pradesh, 2009(1) RCR (Criminal) 1** as well as judgment of Division Bench of this Court in **Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102** and judgment of

Single Bench of this Court in **Joginder Ram and others vs. State of Punjab and another, 2009(1) RCR (Criminal) 495** in support of his contentions.

Learned counsel for complainant-respondent No.2 has not disputed the factum of compromise arrived at between the parties and also grant of divorce on mutual basis as well as receipt of amount in lump-sum by the complainant.

Heard arguments of learned counsel for the parties and have also perused the documents on the file.

Undisputedly, the parties have compromised their dispute and complainant has specifically stated that she does not want to prosecute against the petitioners. A specific affidavit has also been filed in this regard. Moreover, the petition filed under Section 13-B of the Act has been allowed and divorce has been granted on mutual basis. The continuation of proceedings would be an abuse of process of law.

Although offence under Section 406 IPC is compoundable whereas offence under Section 498-A IPC is non-compoundable but by considering the facts and circumstances of the case as the dispute is of matrimonial in nature and by exercising powers provided under Section 482 Cr.P.C., the criminal proceedings relating to non-compoundable offences can be quashed.

In **Gian Singh vs. State of Punjab and another, (2012)4 RCR (Criminal) 543**, Hon'ble the Apex Court has laid down that the

compounding of offence and quashing of criminal proceedings are two different things but are not interchangeable. These two powers are distinct and different but ultimate consequence may be the same. It has been ruled 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 criminal proceedings even relating to non-compoundable offences though such a power, needs to be invoked sparingly and not when the offences are heinous in nature like murder, rape, dacoity etc.

The same view was taken by Five Judges' Bench of this Court in **Kulwinder Singh and others vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052.**

Same issue was also considered by Division Bench of this Court in **Sube Singh's case (supra).**

Accordingly, the present petition is allowed and impugned criminal proceedings arising out of FIR No.179 dated 16.04.2008 registered under Sections 406 and 498-A IPC at Police Station Kotwali Patiala District Hoshiarpur as well as all subsequent proceedings arising therefrom qua the petitioners namely, Rajiv Sharma and Kanta Rani, are hereby quashed .

20.01.2016
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(DAYA CHAUDHARY)
JUDGE