

**233-A IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM M-35454 of 2017 (O&M)
Decided on : 27.11.2017.**

Rajeev Kumar Jain and others

...Petitioners

Versus

State of Haryana and another

...Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

**Present : Mr. Satish Singla, Advocate,
for the petitioners.**

Ms. Dimple Jain, AAG Haryana.

**Mr. Manish, Advocate for
Mr. N.S. Shekhawat, Advocate,
for respondent No.2/complainant.**

Respondent No.2/complainant/wife in person.

JITENDRA CHAUHAN, J.

This is a petition under Section 482 Cr.P.C for quashing of FIR No.218 dated 31.07.2006 registered under Sections 406, 498-A, 323 and 506 read with Section 34 IPC at Police Station Ambala Cantt; the judgment and order dated 30.01.2017, passed by Additional Sessions Judge, Ambala vide which the appeal filed by the appellants/petitioners was dismissed and; the judgment dated 29.01.2015 and order dated 30.01.2015, passed by Judicial Magistrate First Class, Ambala convicting and sentencing the petitioners under

Sections 323, 406, 498-A and 506 read with Section 34 IPC were upheld.

It is contended that with the intervention of the respectable and Panchayat members, a compromise has been reached at between the complainant/wife and the petitioners. It was a matrimonial dispute which has been settled now. It is therefore, submitted that the petitioners be acquitted on the basis of compromise. In support of his assertion, reliance has been placed on (i) *Gian Singh vs. State of Punjab and another*, 2012(4) RCR (Criminal) 543; (ii) *Sube Singh and another vs. State of Haryana and another* (2013) 4 RCR (Criminal) 102 (DB) and; (iii) *Vinod Kumar Ohri and others vs. State of Punjab and another* CRM M-10970 of 2017 decided on September 18, 2017.

On the other hand, the learned State counsel opposes the prayer of the learned counsel for the petitioners and submits that after a judgment of conviction has been passed, the petitioners cannot be acquitted on the basis of compromise.

Learned counsel appearing for respondent No.2/complainant and the complainant/wife admits the factum of compromise.

Hon'ble the Supreme Court in Manohar Singh vs. State of Madhya Pradesh 2014 (3) RCR 685 has held as under:-

“In this case, the appellant is convicted under

Section 498-A of the IPC and sentenced to undergo six months imprisonment. He is convicted under Section 4 of the Dowry Act and sentenced to undergo six months imprisonment. Substantive sentences are to run concurrently. Even though the appellant and respondent No. 2-wife have arrived at a compromise, the order of conviction cannot be quashed on that ground because the offences involved are non compoundable. However, in such a situation if the court feels that the parties have a real desire to bury the hatchet in the interest of peace, it can reduce the sentence of the accused to the sentence already undergone. Section 498-A of the IPC does not prescribe any minimum punishment. Section 4 of the Dowry Act prescribes minimum punishment of six months but proviso thereto states that the Court may, for adequate or special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may be less than six months. Therefore, sentence of the appellant can be reduced to sentence already undergone by him.”

Hence, in view of the compromise reached at between the parties and the guidelines laid down by Hon'ble the Supreme Court, this Court feels that no useful purpose would be served in keeping the proceedings alive. It will be in the interest of justice, if the settlement reached between the parties is accepted.

Accordingly, the judgment of conviction dated 29.01.2015 passed by the learned trial Court and judgment dated 30.01.2017 passed by the learned First Appellate Court are upheld. However, the order of sentence dated 30.01.2015 is modified to the extent that the sentence of the petitioners is reduced from two years to the period already undergone by them subject to payment of fine of

Rs.10,000/- to be paid by each petitioners. The amount of fine so deposited shall be paid to the complainant/wife as compensation. In case the payment is not made within three months from today, the present petition would be deemed to be dismissed without any further notice.

During the hearing, the learned counsel for the complainant has brought to the notice of the Court that the amount of Rs.11,000/- deposited by the petitioners in pursuance of order dated 30.01.2015 passed by the learned trial Court in favour of the complainant has not been released. The trial Court is directed to release the amount in favour of complainant/wife, Monika in case an application is moved within two months from today.

The petition stands disposed of accordingly.

27.11.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No