

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

**CRM-M-36778-2017 (O&M)
Date of decision: - 29.9.2017**

Nitin Singla and others

.....Petitioners

versus

State of Punjab and another

.....Respondents

CORAM: - HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: - Mr. Naveen Mandhan, Advocate for the petitioners.

Ms. Harpreet Kaur, AAG, Punjab.

Mr. Pankaj Bali, Advocate for complainant.

ARVIND SINGH SANGWAN, J (ORAL)

Prayer in the present petition is for quashing of the FIR No. 91 dated 23.3.2016 under Sections 406, 498-A IPC, registered at Police Station City, Khanna, District Ludhiana (Annexure P-1) as well as subsequent proceedings arising out of the said FIR on the basis of compromise (Annexure P-4) dated 22.9.2017.

Notice of motion.

On the asking of the Court, Ms. Simranjeet Kaur, AAG, Punjab and Mr. Pankaj Bali, Advocate, accept notice on behalf of respondent No. 1 and respondent No.2, respectively.

Matter was referred to Mediation and Conciliation Centre of this Court for recording of the statements of the parties and for the purpose of verifying the compromise dated 22.9.2017 (Annexure P-4).

A report from Mr. Adarsh Malik, Mediator dated 29.9.2017 has been filed in Court in which he has stated that parties have compromise the dispute as per Annexure P-4 dated 22.9.2017 and this compromise is out come of free will and consent. Both parties are living together as husband & wife and are having no objection if the present FIR is quashed.

Since, the matter pertains the matrimonial dispute, which has been amicably settled between the parties; they have decided to reconcile the dispute and have started living together as husband and wife, this petition falls in the category of offences, which can be compounded in view of the Full Bench judgment of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, High Court has power under Section 482 Cr.P.C. to 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.

Hon'ble the Apex Court in the case of **Gian Singh vs. State of Punjab and another 2012 (4) RCR (Crl.) 543**, has held as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and

circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

Accordingly, this petition is allowed. FIR No. 91 dated 23.3.2016

Ludhiana (Annexure P-1) and all the subsequent proceedings, arising therefrom are ordered to be quashed qua the petitioners.

29.9.2017
preeti

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No