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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46628-2016 (O&M)
Date of decision: - 2.8.2017

Amarvir Singh and others **.....Petitioners**

versus

State of Punjab and another **.....Respondents**

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

Present: - Mr. Nand Lal Sammi, Advocate for the petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Respondent No. 2 is present in person.

ARVIND SINGH SANGWAN, J. (ORAL)

CRM-17309-2017

Application is allowed. Annexure P-1 is permitted to be taken on record.

CRM-M-46628-2016 (O&M)

Present petition has been filed under Section 482 Cr. P.C. seeking quashing of FIR No. 214 dated 27.7.2015 under Sections 498-A, 406, 420, 323, 506, 120-B IPC, registered at Police Station City Taran Taran, District Taran Taran (Annexure P-1) and further quashing of the order dated 2.7.2016 passed by the Chief Judicial Magistrate, Taran Taran (Annexure P-2) whereby petitioner No. 1 has been declared as proclaimed offender.

Learned counsel for the petitioner submits that present petition has been filed on the basis of compromise dated 22.11.2016 (Annexure P-3) arrived at between the parties before the Mediation and Conciliation Centre of this Court in the earlier petition filed by the petitioners i.e. CRM-M-26941-2016, Jaswinder

Singh and another vs. State of Punjab and another.

Learned counsel for the petitioners in pursuance to report of Mediation Centre has submitted two demand drafts amounting to ₹ 9.00 lacs in favour of respondent No. 2 and submits that an amount of ₹ 4.00 lacs has already been paid.

The aforesaid fact is not disputed by respondent No. 2.

It is also submitted by learned counsel for petitioners that petitioner No. 1, who is husband of respondent No.2, is presently living in Australia and therefore, proceedings initiated against him declaring him as Proclaimed Offender without effecting proper service are not justified.

Learned counsel for respondent No.2 has also submitted that in pursuance to compromise arrived at before the Mediation and Conciliation Centre, parties were to file a petition under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act'). However, respondent No. 2 has filed a petition under Section 13-B of the Act before the District Judge, Taran Taran and the same was allowed ex-parte vide judgment and decree dated 1.4.2017 dissolving the marriage under Section 13(1) (a) (b) of the Act.

Both parties are ad idem that this decree of divorce will be treated as final decree of divorce in terms of Section 13-B of the Act and no party shall initiate any further proceedings in this regard.

As per 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.”

Since parties have agreed to settle the entire dispute between them and have duly complied with the terms and conditions of the order dated 22.11.2016 (Annexure P-3) passed by the Mediation and Conciliation Centre, it would be appropriate to quash FIR No. 214 dated 27.7.2015 under Sections 498-A, 406, 420, 323, 506, 120-B IPC, registered at Police Station City Taran Taran, District Taran Taran (Annexure P-1) and further set aside the order dated 2.7.2016 passed by the Chief Judicial Magistrate, Taran Taran (Annexure P-2) declaring the petitioner No. 1 as Proclaimed Offender, subject to payment of ₹ 10,000/- as costs to be deposited with the District Legal Services Authority, Taran Taran.

Disposed of as above.

(ARVIND SINGH SANGWAN)
JUDGE

2.8.2017
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No