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

**CRM-M-19782-2018
Date of Decision: 10.07.2018**

Deepak Khanna**.... Petitioner**

Versus

State of Haryana and another**.... Respondents****CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Ashwani Kumar Chopra, Senior Advocate with
Ms. Palak Dev, Advocate
for the petitioner.

Mr. Raj Kumar Khanna, father of the petitioner and
Mrs. Vijay Khanna, mother of the petitioner.

Ms. Mahima Yashpal, AAG., Haryana.

Mr. Gaurav Gupta, Advocate
for respondent No. 2-complainant.

Avneesh Jhingan, J. (Oral)

Petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 455 dated 03.07.2017 (Annexure P-1), registered under Sections 323, 406, 498-A, 506 of the Indian Penal Code, 1860 (*'IPC' for short*), at Police Station Suraj Kund, District Faridabad, and all subsequent proceedings arising therefrom, on the basis of compromise in the shape of joint statement dated 24.04.2018, recorded in the proceedings pending under Section 13-B of the Hindu Marriage Act, 1955 (*for short 'the Act'*).

Vide order dated 10.05.2018, a direction was given to Illaqa Magistrate/trial Court to record the statements of the parties and to submit a report regarding the genuineness of the compromise effected between the parties.

In pursuance thereof, the Chief Judicial Magistrate, Faridabad has submitted a report dated 29.05.2018, after recording the statements of the parties.

The statements of respondent No.2/complainant-Priyanka Kapoor and petitioner/accused-Deepak Khanna were recorded. They appeared along with their respective counsel, who identified them and got their statements recorded acknowledging that the compromise had been effected voluntarily, without any coercion or undue influence.

This fact is not disputed either by learned State Counsel or by the counsel for the complainant.

Learned counsel for the State, on instructions from the Investigating Officer, submits that no PO proceeding is pending against either of the parties.

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 pre- dominantly 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 the parties have arrived at a compromise and decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

In spite of the compromise, the fact which is to be taken note of is that the petitioner is in a private employment and his parents are going abroad on a tourist visa. The proceedings under Section 13-B of the Act are still pending and it is stated by both the parties that ₹30,00,000/- have been paid by the petitioner to the complainant and ₹10,00,000/- is remaining which is to be paid on the date of second motion which is fixed for 03.11.2018.

In order to balance the equities, the quashing of the FIR in question is being done subject to the condition that the petitioners would deposit a draft of

₹10,00,000/-.

At this stage, the parties have stated that they may be permitted to move a joint application for waiving of six months' statutory period.

Since the matter has already been compromised, the parties would be at liberty to move an application before the Family Court for waiving of six months' statutory period prescribed under Section 13-B(2) of the Act.

Without expressing any opinion on merits, in case such an application is moved by the parties, there is no doubt that the Family Court would decide the same in accordance with law as expeditiously as possible. In case, the application is allowed, the payment of ₹10,00,000/- will be made to the complainant on that very day. Otherwise, learned counsel for the petitioner undertakes that ₹10,00,000/- would be deposited with the Registrar (Judicial) of this Court. The amount shall be kept in the form of FDR initially for a period of four months and likewise, period if so required.

Accordingly, this petition is allowed subject to the deposit of ₹10,00,000/-. FIR No. 455 dated 03.07.2017 (Annexure P-1), registered under Sections 323, 406, 498-A, 506 of the IPC, at Police Station Suraj Kund, District Faridabad and all subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioner herein.

It is clarified that in case of any delay by the petitioner in returning back to India or in second motion, the said amount shall be forfeited.

10th July, 2018

shabha

(AVNEESH JHINGAN)
JUDGE

Whether Speaking/reasoned : *Yes/No*

Whether Reportable : *Yes/No*