

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

CRM-M-3627 of 2018

DATE OF DECISION : 04.05.2018

Kanhaiya Mittal

....PETITIONER

Versus

State of Haryana and another

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Vaibhav Jain, Advocate,
for the petitioner.

Mr. Arun Singh, AAG, Haryana.

Mr. Aditya Sanghi, Advocate,
for respondent No.2.

* * *

AVNEESH JHINGAN, J. (Oral)

1. The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.24 dated 16.05.2017, under Sections 323, 34, 406, 498A, 506 IPC, registered at Police Station Women Police Station, Hisar, and all subsequent proceedings arising therefrom, on account of the joint statement of first motion under Section 13-B of the Hindu Marriage Act, 1955, recorded on 13.07.2017 (Annexure P-2).

2. Vide order dated 23.03.2018, a direction was issued to the 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 Judicial Magistrate Ist Class,

Hisar has submitted a report dated 16.04.2018, after recording the statements of the parties. The statements of the complainant - Meetu Goyal and accused Kanhaiya Mittal – petitioner in the present case were recorded. They got their statements recorded acknowledging that they have sorted out all the differences and a compromise has been effected between them. This fact is not disputed either by learned State counsel or by learned counsel for the complainant.

3. Learned State counsel submits that the petitioner is not proclaimed offender.

4. The report of the Judicial Magistrate Ist Class, Hisar further states that the compromise between the parties was entered into voluntarily, without any pressure or inducement.

5. 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 feels 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.

6. 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.”

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

8. Accordingly, this petition is allowed. FIR No.24 dated 16.05.2017, under Sections 323, 34, 406, 498A, 506 IPC, registered at Police Station Women Police Station, Hisar and all subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioners.

May 04, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No