

242 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5625-2016(O&M)

Date of decision:11.05.2018

Anita Mehra and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sanjeeva Gupta, Advocate
with petitioners.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Dhanender Sharma, Advocate
for Mr. Vivek Suri, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of FIR No.361 dated 19.07.2013, registered at police station Sector-5, Panchkula (Annexure P-2), the order dated 20.01.2015 (Annexure P-8) passed by the trial Court, vide which the charges were framed against the petitioners and the order dated 06.01.2016 (Annexure P-9), passed by the Additional Sessions Judge, Panchkula, vide which the revision filed by the petitioners was dismissed.

On joint request made by learned counsel for the parties, the matter was referred to Mediation and Conciliation Centre, vide order dated 13.11.2017. The report of the Mediator dated 16.12.2017 has been received.

Learned counsel for the parties are *ad idem* that as per report of the Mediator, the matter has been amicably settled. The operative part of the report is reproduced as below:-

“5. *The parties hereto confirm and declare that they have*

voluntarily and of their own free will arrive at this Settlement/Agreement in the presence of the Mediator/Conciliator.

6. *As informed by the parties, apart from the present CRM-M, following cases are pending between the parties:-*

i) FIR No.361 dated 19.07.2013, P.S. Sector-5, Panchkula(Haryana) in which the charge has been framed under Sections 341, 452, 454, 323, 506 r/w Section 34 of the Indian Penal Code, 1860 framed by the learned Trial Court at Panchkula (Hry.) and now the next date is 16.01.2018 in the Court of Sh. Rohit Watts, Chief Judicial Magistrate, Panchkula.

ii) A Criminal Complaint titled as 'Anita Mehra Vs. Pooja Mehra and others' filed by Anita Mehra-first party against the second party and others and is pending in the Court of Sh. Tarun Kumar Verma, J.M.I.C., Panchkula and now fixed for 23.01.2018.

iii) Civil Suit titled as 'Harshita through her mother Vs. Raman Mehra' in which the first party (Raman Mehra) has filed Civil Revision No.61 of 2016. The said Civil Suit is pending adjudication in the Court of Sh. Tarun Kumar Verma, Civil Judge (Jr. Division), Panchkula and now fixed for 30.01.2018.

7. *The following settlement has been arrived at between the parties hereto:*

i) That the parties have mutually agreed to withdraw their respective cases and the second party shall furnish an affidavit to the effect that she has got no objection if FIR No. 361 dated 19.07.2013, P.S.Sector-5, Panchkula is quashed by this Hon'ble Court. Moreover, the first party shall file an application to withdraw Civil Revision No.61 of 2016 titled as 'Raman Mehra vs.

Harshita through her mother Pooja Mehra' and thereafter the second party shall withdraw her Civil Suit pending at Panchkula.

ii) That both the parties undertake to move the respective applications for withdrawal of their cases in the Courts within a fortnight and it has been mutually resolved that none of the parties shall ever indulge in future litigation qua anything and the first party shall not claim the custody and visitation rights of the minor child Harshita, who is in the custody of the second party and all the disputes have been finally settled and there is no scope whatsoever for further litigation at all times to come. This settlement between the parties shall be with respect to all claims past, present or future and both the parties shall be bound by the terms and conditions.

8. That the present Settlement/Agreement will be full and final and no further claim for any alimony/maintenance and Stridhan will be claimed by the second party in any Court of Law.

9. By signing this Settlement / Agreement the parties hereto state that they have no further claims or demands against each other with respect to the suit/claim/proceedings filed by both the parties in the different Courts of Law and all the disputes and differences in this regard have been amicably settled by the parties hereto through the process of Conciliation/Mediation and shall not institute any other case against each other with reference to the present claim.

10. That the parties to this agreement hereby state that they have read this settlement/agreement and have understood the contents thereof and their execution of this Settlement /

Agreement is voluntary.

11. With the execution of this Settlement /Agreement, each signatory acknowledges receipt of fully executed duplicate/ original of this Settlement/Agreement.

12. That it has been further agreed between the parties that in case of necessity, both the parties shall be free to present the copy of the above Settlement/Agreement before any Authority or Court of Law if the same is required to witness the execution of this Settlement /Agreement or to settle any pending controversy between 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 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 the parties have amicably settled their dispute, not only the present FIR but the other cases have also been compromised between the parties and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, this petition is allowed. FIR No.361 dated 19.07.2013, registered at police station, Sector-5, Panchkula (Annexure P-2), the order dated 20.01.2015 (Annexure P-8) and the order dated 06.01.2016 (Annexure P-9) and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioners.

It is made clear that the parties will be bound by the award dated 16.12.2017, passed by the Mediator.

(ARVIND SINGH SANGWAN)
JUDGE

11.05.2018
Hemlata

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