

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

CRM-M-21713 of 2018.

Decided on:- January 17, 2019.

Ajay Kumar Tehlan.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Ravinder Hooda, Advocate
for the petitioner.

Ms. Priyanka Sadar, A.A.G., Haryana.

Mr. Mohit Sadana, Advocate
for respondent No.2.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.45 dated 14.03.2014 under Sections 498-A and 406 read with Section 34 IPC registered at Police Station City Gohana, District Sonapat (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise deed dated 12.05.2018 (Annexure P-3).

Learned counsel for the petitioner has contended that the petitioner is living abroad and, therefore, the present petition has been filed through Sat Narain @ Sat Bhagwan, who is father of the petitioner holding a valid power of attorney. He has relied upon the order dated 01.06.2018 passed by this Court in **CRM-M-6890 of 2013** titled as **Mangal Das Gautam and another Versus State of Haryana and another** whereby the Division Bench

of this Court has held that the criminal proceedings under Section 482 of Cr.P.C. can be filed by an accused through an Attorney, but the circumstances under which it can be so filed and would be maintainable would be dependent upon various factors including facts and circumstances of that particular case, which is better left at the wisdom and discretion of the Court.

He has further contended that though petitioner Ajay Kumar Tehlan is living abroad, but neither he has been arrested nor declared as a proclaimed person. The two other co-accused, namely, Kamlesh and Sat Bhagwan have already been acquitted by the trial Court of the charge levelled against them.

This Court vide order dated 21.05.2018 had directed the parties to appear before the trial Court/Illaq Magistrate to get their respective statements recorded with regard to compromise and the Court was directed to send its report qua genuineness of the compromise.

Pursuant to the aforesaid order, the petitioner as well as respondent No.2-complainant have appeared before learned Sub Divisional Judicial Magistrate, Gohana and got their statements recorded on 28.05.2018. On the basis of the statements so recorded by the parties, learned Magistrate has submitted the report dated 07.07.2018 to the effect that the compromise between the parties is genuine, it was voluntarily effected out of their free will and there is no element of fraud, pressure, fear or undue influence.

The FIR in question has been recorded on the basis of statement of respondent No.2-complainant Komal. In her statement in support of the compromise made before learned Magistrate on 28.05.2018, she has clearly stated that the matter has been compromised between the parties. She has

compromised the matter with her own will and keeping in mind her future aspects. There is no element of pressure, fear or undue influence and she does not want to continue with the proceedings against the accused.

Learned State counsel and learned counsel for respondent No.2 have not disputed the factum of compromise effected between the parties.

In view of the above, continuation of the proceedings before the trial Court in the instant FIR qua the petitioner shall be an abuse of the process of law.

Hon'ble Supreme Court in ***Gold Quest International Private Limited Versus State of Tamil Nadu and others 2014 (4) RCR (Criminal) 206*** has held that the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the proceedings under Section 482 Cr.P.C. read with Article 226 of the Constitution.

It being a matrimonial dispute and the petitioner-husband having authorized his father to enter into compromise, this Court finds that in the light of the observations made in ***Mangal Das Gautam and another's case (supra)***, continuation of the proceedings before the trial Court in the instant FIR qua the petitioner shall be an abuse of the process of law.

Thus, following the principles laid down by the Full Bench judgment of this Court in ***Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052*** and approved by the Hon'ble Supreme Court in ***Gian Singh Versus State of Punjab and others (2012) 10 SCC 303*** as well as the law laid down in ***Gold Quest International***

Private Limited's case (supra), the present petition is allowed and the FIR No.45 dated 14.03.2014 under Sections 498-A and 406 read with Section 34 IPC registered at Police Station City Gohana, District Sonapat (Annexure P-1) and all consequential proceedings arising therefrom are quashed qua the petitioner on the basis of compromise deed dated 12.05.2018 (Annexure P-3), however, subject to payment of costs of Rs.25,000/- to be paid by the petitioner to the Poor Patients' Welfare Fund of the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh within a period of 15 days from today.

January 17, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No