

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

**CRM-M-25156-2018
Date of decision: 04.04.2019**

Ritu Kolentine

...Petitioner

Versus

Amarjit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Rohit Kapoor, Advocate
for the petitioner.

Mr. Vivek Salathia, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 482 Cr.P.C., is for quashing of Criminal Complaint No. 4618-16, UID No. PB0554, under Sections 420 and 506 of the IPC, instituted on 17.11.2016; as well as for setting the summoning order dated 01.03.2018, passed by the Judicial Magistrate First Class, Amritsar, along with all consequential proceedings arising out of the complaint and summoning order.

During the pendency of this petition, vide order dated 02.07.2018 the matter was referred to Mediation and Conciliation Centre of this Court for exploring the possibility of an amicable settlement.

In pursuance to the aforesaid direction, the petitioner as well as the respondent/complainant have appeared before the Mediator on 14.11.2018 and the following settlement is arrived at between them:

“3. Today the efforts to settle the dispute were made in

joint and separate sessions with both the parties. After discussions the parties have finally agreed to settle the matter on the following terms:-

- a) That the first party has felt sorry for all the inconvenience suffered by the second party due to the sudden change of policy by the Beauty Parlour and the dispute and differences risen due to the same.
- b) That the first party has agreed to pay Rs.90,000/- as compensation for the expenses incurred by the second party on legal proceedings initiated by second party. The said amount also include the amount of the spa services which were not availed by the second party, when the package obtained by the second party was suddenly terminated. The first party has issued the cheque no.000079 dated 14.11.2018 drawn on HDFC Bank Modal Town for Rs.90,000/-(Rupees Ninety Thousand only) to the second party in presence of the undersigned. The first party shall ensure that the said cheque shall be honored as and when the same is presented by second party for encashment.
- c) That the second party shall withdraw his complaint before the learned Judicial Magistrate First Class Amritsar which has been sought to be quashed by the first party within the period of fifteen days from today.
- d) That the present settlement is full and final settlement. None of the parties to the present settlement shall raise any dispute in respect of the present controversy.”

Learned counsel for the petitioner submits that the cheque of Rs. 90,000/-, issued by the petitioner in favour of the respondent/complainant, has already been encashed by the bank and, therefore, terms and conditions of the aforesaid settlement, arrived at between the parties, are duly complied with. This fact is not disputed by

learned counsel for the respondent/complainant.

I have heard learned counsel for the parties and perused the case file.

As per the Full Bench judgment of this Court in ***Kulwinder Singh and others Vs. State of Punjab, 2007 (3) RCR (Criminal) 1052***, it is held that the 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 feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble Apex Court in the case of ***Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543***, has held as under:-

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

In view of the above discussion, present petition is allowed and Criminal Complaint No. 4618-16, UID No. PB0554, under Sections 420 and 506 of the IPC, instituted on 17.11.2016; as well as the summoning order dated 01.03.2018, passed by the Judicial Magistrate First Class, Amritsar and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

04.04.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No