

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

**CRM-M No.31490 of 2017 (O&M)
Decided on: 14.03.2019**

Madhubala and others

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Petitioner – Madhubala in person
with Ms. Swati Batra, Advocate (Legal Aid Counsel)
for the petitioners.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Naresh Kaushik, Advocate
for respondents No.2 and 3.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners have prayed for quashing of FIR No.217 dated 31.12.2013 registered under Sections 323, 325, 506 and 120-B of the Indian Penal Code (in short 'IPC') at Police Station Hassanpur, District Palwal and all other consequential proceedings arising therefrom.

As per the averment in the petition, petitioner No.1 is wife of respondent No.3 and their marriage was performed on 16.02.2010 and one girl namely Vedanti was born out of the wedlock on 08.03.2011. Thereafter, the parties developed disputes on various counts followed by litigation and during the mediation proceedings before the Mediation Cell, Dwaraka Courts, New Delhi on 23.07.2014, a compromise was effected between the parties, a copy of which is attached with the petition as Annexure P3. The operative part of the

same, reads as under:-

“1. That the said parties have settled all their claim / disputes with regard to the present bail application / case FIR 346/14, P.S. Bindapur, New Delhi as well as all the above mentioned connected cases, it has been agreed between the parties i.e. complainant / wife Ms. Madhu Bala and Respondent husband Sh. Shiv Kumar Sharma that they shall seek divorce by mutual consent.

2. That the custody of baby Vedanti Shall remain with the complainant mother Ms Madhu Bala and the respondent / husband shall not claim the custody and visitation rights of minor baby Vedanti in future this is decided by both present keeping in view the welfare of the child as paramount.

3. That the respondent / husband has agreed to pay a sum of Rs.30,50,000/- (Rs. Thirty Lac Fifty Thousand only) to the complainant/Wife Ms. Madhu Bala (Rs. 20,50,000/- for baby Vedanti and Rs.10,00,000/-) for complainant / wife Ms. Madhu Bala, towards full and final settlement of all claims, regarding dowry, stridhan, permanent alimony and maintenance (present, past and future) of complainant / wife as well as child's (baby Vedanti) education, maintenance (present, past and future) etc. which the complainant/wife has agreed to accept as such for herself as well as on behalf of baby Vedanti as her natural guarding stating that it is for welfare of child to protect her from ill consequences of matrimonial discord and conflict.

4. That out of the settled sum of Rs. 30,50,000/- (Rs.Thirty Lac Fifty Thousand only) respondent / husband has handed over today to the complainant, two DDs in sum of Rs. 8,00,000/- total as parties payment. Complainant/wife acknowledge the sum of details of said two DDs are as under :-

a). DD (In name of Madhu Bala) bearing no.986449 dated 19.07.2014, in sum of Rs.5,00,000 drawn on Punjab National Bank, Greater Kailash, Part 2, New Delhi 110048.

b). DD in the name of MadhuBala bearing no.841355 dated 19.07.2014, in sum of Rs. 3,00,000 drawn on Canara Bank, Tikona Park, Faridabad, New Delhi 121001.

5. That the balance sum of Rs. 22,50,000 (Rs. Twenty Two Lac Fifty Thousand only) shall be paid by the respondent /husband to the complainant / wife as per the following schedule:-

(i) A sum of Rs. 6,25,000- (Rs. Six Lac Twenty Five Thousand only) in form of FDR in name of baby Vedanti under guardianship of complainant / wife Ms. Madhu Bala, with date of maturity as 08.03.2029 (the date of attaining age of attending 18 years of Baby Vedanti) shall be handed over by the respondent husband Sh. Shiv Kumar Sharma to the complainant / wife Ms. Madhu Bala, before the concerned Hon'ble court on 20.08.2014, in connected case mentioned hearing above at serial no. 2 and on the same day, on receipt of the said FDR is sum of Rs. 6,25,000/-, the complainant / wife sign the petitioner and relevant documents for quashing of FIR No.346/14, P.S. Bindapur, the complainant / wife shall also on the same day i.e. on 20.08.2014, after receipt of the said FDR in sum of Rs.6,25,000 (in name of baby Vedanti), withdraw /request the concerned court for disposal of the above mentioned connected case U/s 125 Cr PC, title as "Madhu Bala Vs Shiv Kumar Sharma" mentioned here as a connected case at serial no. 2 in terms of the present settlement.

(ii) Another sum of Rs.6,25,000/- (Rs. Six Lac Twenty Five Thousand only) in form of FDR in name of

baby Vedanti under the guardianships of complainant / wife Ms. Madhu Bala, with date of maturity as 08.03.2029 (the date of attaining the age of attending 18 years by baby Vedanti), shall be handed over by the respondent husband Sh. Shiv Kumar Sharma to the complainant / wife Ms. Madhu Bala on 30.08.2014 before the concerned Hon'ble court in case mentioned hearing as connected case serial no. 1 titled as "Madhu Bala Vs Shiv Kumar Sharma &Ors."

(iii) Another sum of Rs. 2,00,000 shall be paid by the respondent / husband to the complainant / wife at the time of recording of her statement during first motion petition U/s 13 B (i) of HMA which shall be filed jointly by the parties i.e. complainant / wife and the respondent husband on or before 15.01.2014.

(iv) Another sum of Rs. 3,00,000 in form of FDR in name of baby Vedanti under the guardianship of complainant / wife Ms. Madhu Bala with date of maturity on 08.03.2029 shall be handed over by the respondent / husband at the time of recording of statement during second motion U/s 13 B (ii) of HMA which shall be filed within 15 days after expiry of minimum statutory period from the date of first motion petitioner U/s 13 B (i) of HMA as per law.

(v) Balance sum of Rs. 5,00,000/- in form of FDR in name of baby Vedanti under the guardianship of complainant / wife Ms. Madhu Bala with date of maturity on 08.03.2029 shall be paid by respondent / husband to the complainant / wife at the time of recording of statement of complainant / wife in proceeding of quashing of FIR no. 346/14, U/s 498 A/406 34 IPC, P.S. Bindapur, New Delhi, before the Hon'ble High Court of Delhi, against the respondent / husband and his family members which shall be filed in first week of September 2014 by the

respondent and the complainant / wife shall cooperate in the same.

6. It is agreed between the parties that they shall move appropriate application make their respective statements before the Hon'ble concerned court / authority, in respect of the above mentioned connected case, mentioned hearing as connected as at Sr. No. 5 for compounding the offence U/s 323/325/506 120B IPC, in FIR No. 217/13, P.S. Hasanpur, Haryana or shall apply for quashing of FIR as per law, in the first week of September respondent shall cooperate in the same.”

Thus, it was agreed between the parties in the said settlement that respondents No.2 and 3 will have no objection in quashing of the present FIR No.217 dated 31.12.2013.

The present petition has been filed on the premise that despite the undertaking given in the said petition, respondents No.2 and 3 are not abiding by the same and, therefore, prayer is made that this petition be allowed and the FIR No.217 dated 31.12.2013 be quashed, being part of the settlement arrived at between the parties before the Mediator at Dwarka Court, New Delhi.

On 22.02.2019, the case was again referred to the Mediation and Conciliation Centre of this Court for recording the statement of the parties as requested by learned counsel representing them. Respondents No.2 and 3 in their statements have stated that they have no objection if FIR No.217 dated 31.12.2013 be quashed on the basis of the compromise (Annexure P3 attached with the present petition).

Similar statement has been made by the petitioner – Madhu Bala.

Counsel for the State assisted with counsel for respondent Nos.2 and 3 has not disputed the fact that the parties have arrived at a settlement with an intent to give burial to their differences.

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

After perusing the compromise (Annexure P3) effected between the parties and the statements made on 22.02.2019 before the Mediation and Conciliation Centre, this Court is of the opinion that the matter has been amicably settled between the petitioners and the respondents, who have decided to bury their dispute arising out of a matrimonial discord and live in peace.

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 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 the Apex Court in the case of ***“Gian Singh vs State of Punjab and another”***, 2012 (4) RCR (Criminal) 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 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 what has been discussed hereinabove, the petition is allowed and FIR No.217 dated 31.12.2013 registered under Sections 323, 325, 506 and 120-B IPC at Police Station Hassanpur, District Palwal and further proceedings emanating therefrom, are ordered to be quashed, *qua* the petitioners.

(ARVIND SINGH SANGWAN)
JUDGE

14.03.2019

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No