

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 2277 of 2021
Date of Decision: 15.3.2021**

Akash Mittal

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Ashok Singh Chaudhary, Addl. A.G, Haryana.

Mr. Pardeep Chhoker, Advocate
for respondent No. 2.

HARNARESH SINGH GILL, J. (ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 115 dated 16.11.2018 under Sections 498-A, 323, 406, 354, 506 IPC registered at Police Station Women Yamuna Nagar, District Yamuna Nagar (Anneuxre P-1), and all the consequential proceedings arising therefrom, on the basis of compromise dated 08.7.2020 (Annexure P-2) arrived at between the parties.

Learned counsel for the petitioner submits that the marriage of the petitioner was solemnized with respondent No. 2 on 03.12.2014 and out of the wedlock, no child was born. He further submits that since there was a matrimonial dispute between the husband and wife, the present FIR has been got registered and now with the intervention of the respectables, the matter has been amicably resolved between the parties and it has been agreed that the petitioner would pay Rs. 8.00 lacs to complainant-

respondent No. 2 (wife) towards present, past and future maintenance and as permanent alimony and out of the said amount, respondent No. 2 has already received Rs. 4.00 lacs and the remaining amount of Rs. 4.00 lacs would be paid at the time of recording of second motion statement in the petition filed under Section 13-B of the Hindu Marriage Act, 1955 ('Act' for short). Learned counsel has placed reliance on the judgments passed by the Co-ordinate Benches of this Court in ***Amandeep Singh and others versus State of Punjab and another 2018(2) Crl. CC 162*** and ***CRM-M-24336-2020*** titled ***Gaurav and others versus State of Haryana and another*** decided on ***23.11.2020***.

Learned counsel for the petitioner submits that the petitioner has also filed CRM-M-10164-2021 for quashing of the P.O. proceedings as well as the FIR registered under Section 174-A IPC. He further submits that the petitioner never visited India after 2017 and has placed on record copy of the passport of the petitioner in CRM-M-10164-2021.

Learned State counsel as well as learned counsel for respondent No. 2 has admitted the factum of compromise effected between the parties. It has been brought to the notice of the Court that the proceedings under Section 13-B of the Act have already been initiated and the second motion statement is yet to be recorded.

Vide order dated 19.1.2021, the the trial Court was directed to record the statements of the parties with regard to the genuineness and validity of the compromise.

In compliance thereof, Judicial Magistrate Ist Class, Yamuna Nagar at Jagaghari has submitted a consolidated report vide letter dated 29.1.2021 which indicates that the parties i.e. Radhey Shyam Mittal, who is

the father and Special Power of attorney of petitioner-Akash Mittal, as well as the complainant, appeared before the Magistrate and got recorded their respective statements with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is genuine. In the report, it has also been pointed out by the Magistrate that accused-petitioner Akash Mittal is absconding and vide order dated 02.7.2019, he has been declared a proclaimed person.

The Hon'ble Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052*** and Hon'ble Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102*** observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

Hon'ble Apex Court in the case of ***Gian Singh Versus 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 pre-dominatingly 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 personnel 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.”

The same view has been reiterated by Co-ordinate Bench of this Court in the case of *Amandeep Singh and others versus State of Punjab and another 2018(2) CrL CC 162* where the plea of husband, declaring him proclaimed offender, was found to be in violation of provisions of Law as he was admittedly in USA at the time when the FIR was registered.

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.

Accordingly, this petition is allowed. FIR No. 115 dated 16.11.2018 under Sections 498-A, 323, 406, 354, 506 IPC registered at Police Station Women Yamuna Nagar, District Yamuna Nagar (Annexure P-1) and all the consequential proceedings, arising therefrom, are quashed qua the petitioner on the basis of compromise dated 08.7.2020 (Annexure P-2) subject to his depositing costs of Rs. 10,000/- with the Lawyers' Welfare Fund of this Court.

Needless to say that parties shall remain bound by the terms of compromise and their statements made in the Court below.

(HARNARESH SINGH GILL)
JUDGE

March 15, 2021
Gurpreet

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