

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CRM-30147-2020 in/and
CRM-M-3276-2020
Date of Decision: 25.01.2021**

Madhav Kulshreshtha

....Petitioner

VERSUS

State of Haryana and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Arun Gupta, Advocate for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. Manu K. Bhandari, Advocate for respondent No. 2.

ALKA SARIN, J. (Oral)

Heard through video conferencing.

CRM-30147-2020

This is an application praying for preponing the hearing of the main petition (CRM-M-3276-2020).

On 15.12.2020, notice in the present application was issued.

Today, Mr. Manu K. Bhandari, Advocate has put in appearance on behalf of respondent No.2, who has no objection to preponement of the main case.

With the consent of the learned counsel for the parties, the date of the main case (CRM-M-3276-2020) is preponed and the same is taken on board today itself.

CRM stands disposed off.

CRM-M-3276-2020

On 27.01.2020, the following order was passed:-

“This is a petition that has been filed seeking quashing of FIR No.507 dated 22.08.2014 under Sections 498-A, 406, 323, 506, 376 IPC (Section 376 was converted into Section 377 IPC in the challan) registered at Palam Vihar Police Station, Gurgaon on the basis that a compromise has been entered into between the parties.

Notice of motion.

At this stage, on the asking of the Court, Ms. Mahima Yashpal, AAG, Haryana accepts notice on behalf of respondent-State and Mr. Saajan Singla, Advocate accepts notice for respondent No.2 and files his memo of appearance and admits to the factum of compromise. Copy of the paper book be supplied to them during the course of day.

Service is complete.

Now the parties are directed to appear before the learned trial Court/Illaqa Magistrate on 24.02.2020 or any other date convenient to the trial Court/Illaqa Magistrate, to get recorded their statements regarding compromise and after recording their statements, learned trial Court/Illaqa Magistrate is directed to send report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party on or before the date fixed i.e. 23.03.2020.

A copy of the order be sent to learned trial Court/Illaqa Magistrate through fax for compliance.”

Report dated 06.02.2020 of the Judicial Magistrate First Class, Gurugram has been received by this Court wherein it has been stated that statements of the parties have since been recorded and that the parties have entered into a compromise voluntarily and without any pressure or coercion. None of the parties to the petition has been declared proclaimed offender.

Learned counsel for the petitioner states that the second motion statement under Section 13-B of the Hindu Marriage Act, 1955 has also been recorded and all the terms and conditions, as stated in the compromise (Annexure P-4), have since been complied with.

Learned counsel appearing for the complainant/respondent No.2 does not dispute the fact that all the terms and conditions of the compromise/affidavit (Annexure P-4) have been complied with.

The Apex Court in the case of “**Gian Singh vs State of Punjab & Anr.**” 2012 (10) SCC 303, 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-dominantly 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.”

Learned counsel for the petitioner has also referred to the law laid down by this Court in “**Kulwinder Singh & Ors. vs. State of Punjab & anr.**” 2007 (3) RCR (Criminal) 1052, wherein it has been held that even in non-compoundable offences, if the parties have entered into a compromise,

this Court has wide powers under Section 482 CrPC to quash the proceedings to prevent abuse of law and secure the ends of justice.

In view of the above and keeping in view the report of the Judicial Magistrate First Class, Gurugram that the parties have genuinely entered into a compromise and all the disputes between the parties have been resolved, it would not be in the interest of justice to continue the criminal proceedings.

Resultantly, FIR No.507 dated 22.08.2014 registered under Sections 498A, 406, 323, 506, 376 of the Indian Penal Code, 1860 at Police Station Palam Vihar, Gurugram (Section 376 was converted into Section 377 IPC in the challan) as well as all the subsequent proceedings arising therefrom, stand quashed.

The petition is accordingly allowed.

**(ALKA SARIN)
JUDGE**

25th January, 2021
jk

Whether speaking/reasoned Yes/No

Whether reportable Yes/No