

CRM-M-17918-2016

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

CRM-M-17918-2016 (O & M)

Date of decision: 06.01.2021

Amarjit Kaur

...Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. S.S.Rangi, Advocate,
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Mr. B.S.Bedi, Advocate,
for respondent No.2.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

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Allowed as prayed for. Compromise (Annexure P-30) and special power of attorney (Annexure P-31) are taken on record, subject to all just exceptions.

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This petition has been filed for quashing of FIR No.214 dated 01.12.2015, registered at Police Station Phase-I, SAS Nagar, Mohali, under Sections 498-A and 406 IPC, alongwith all the subsequent proceedings arising therefrom.

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As per the prosecution version, the marriage of co-accused, Gurpreet Singh-son of the petitioner and respondent No.2-complainant, Manpreet Kaur, was solemnized on 18.01.1998, two children, namely Agamdeep Singh (22 years) and Gulnar Kaur (16 years), were born to the said couple. There are allegations that Gurpreet Singh-husband, Amarjit Kaur-mother-in-law (petitioner) and Baljeet Kaur(sister of mother-in-law), who are residing in the same house, had tortured and harassed the complainant in order to get money from her parents.

A Coordinate Bench, on 16.09.2016, passed the following order”

“The complainant, who is present in Court, has produced the statement made by petitioner Gurpreet Singh made before the Chief Judicial Magistrate, Mohali on 14.08.2019, wherein he has given an undertaking to pay a sum of Rs.62 lakh to the complainant as full and final settlement of all the litigations between them including the maintenance of complainant Manpreet Kaur and her son Agamdeep Singh and daughter Gulnar.

The complainant states that despite the undertaking given by petitioner Gurpreet Singh, neither the maintenance nor the agreed amount has been paid by him, whereas the joint petition under Section 13-B of the Hindu Marriage Act, 1955 was filed obviously on the basis of statement made by Gurpreet Singh.

No one is present on behalf of the petitioner.

In the interest of justice, adjourned to 17.10.2019.

The petitioner is directed to remain present in Court on the next date of hearing along with an affidavit in support of his statement made before the Chief Judicial Magistrate, Mohali on 14.08.2019.

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Photocopy of this order be placed on the file of other connected case.”

During the pendency of this petition, the matter has been compromised between the parties, vide compromise deed (Annexure P-30).

Learned counsel for respondent No.2-complainant does not dispute the factum of compromise dated 21.12.2020.

On the perusal of compromise deed (Annexure P-30), it is axiomatic that the matter has been reconciled between the parties; that Gurpreet Singh, son of the petitioner, and the complainant have already moved an application under Section 13-B of the Hindu Marriage Act wherein the first motion had been passed and the second motion is fixed for 07.01.2021.

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.

The 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-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 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 also been reiterated by Hon'ble the Apex

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Court in case *Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482.*

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, the present petition is allowed. FIR No.214 dated 01.12.2015, registered at Police Station Phase-I, SAS Nagar, Mohali, under Sections 498-A and 406 IPC, and all the subsequent proceedings arising therefrom, are quashed qua the petitioner.

Needless to say that the parties shall remain bound by the terms of compromise.

06.01.2021
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No