

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

(261)

CRM-M-11628-2021

Date of Decision: 31.10.2022

Gursharan Singh

--Petitioner

Versus

State of Punjab and another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. R.M.Sharma, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr.Khushgra Mahajan Advocate
for respondent No.2.

RAJESH BHARDWAJ.J (Oral)

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.91, dated 29.05.2015, under Sections 498-A/326/323/324/341/506/201 of IPC, at Police Station Samana, District Samana, on the basis of compromise dated 09.07.2020 (Annexure P-2).

Learned counsel for the petitioner submits that the petitioner was married with respondent no.2 on 7.12.2014. He submits that thereafter due to the matrimonial discord the present FIR was registered, however, with the intervention of the respectable parties arrived at a compromise dated 9.7.2020 which has been placed on record as Annexure P-2. Counsel submits that the marriage between the petitioner and respondent no.2 already stands dissolved vide order dated 26.8.2021 passed in a petition filed under section 13-B of Hindu Marriage Act. Counsel submits that as per the agreement arrived at, both the parties agreed that the present FIR would be quashed. He submits that in pursuance to the agreement arrived at a sum

of Rs.8 lakh as permanent alimony has already been paid to respondent no.2. Counsel further submits that thereafter the parties were referred to the Illaqa/Duty Magistrate for recording their statements in support of the compromise. It is submitted that the petitioner duly appeared before the Magistrate, however, respondent no.2 backed out and did not appear for recording of her statement. The report dated 23.8.2022 sent by learned JMIC, Samana affirms the same. Learned counsel for the petitioners has relied upon the judicial precedent of Hon'ble Supreme Court in **Ruchi Agarwal Vs. Amit Kumar**, 2004(2) Cri. App. R (SC) 926, to say that where the wife is not withdrawing the FIR & not fulfilling her part of compromise, the intention of the wife is to harass the husband even after having compromised the matter.

Learned counsel for respondent no.2 who is present in Court has stated that he is not in touch with the complainant. He has further stated that earlier at the time of filing of the present petition he was told by the complainant about the compromise/settlement of the dispute between the parties but from the last 3-4 dates he has not received any instructions from respondent no.2.

This Court vide order dated 15.03.2021 directed the parties to appear before the learned Illaqa Magistrate/Duty Magistrate for recording their statement in support of the compromise.

In the report dated 23.08.2022, received from the Judicial Magistrate Ist Class, Samana, it has been mentioned that the petitioner appeared and suffered statement before that Court but the complainant did not turn up to affirm the factum of compromise.

Heard.

A perusal of the file shows that the petitioner-husband performed his part of settlement but the wife has backed out of the compromise after receiving the agreed amount and has not complied with the conditions agreed upon by her. The petitioner-husband while performing his part of settlement paid Rs.4 Lacs to the respondent-wife at the time of first motion statement and remaining amount of Rs.4 lacs at the time of second motion statement and finally their marriage was dissolved by decree of divorce, copy of which has been placed on record as Annexure P-8. A perusal of Annexure P-9 i.e. statement of respondent No.2 recorded at the time of second motion shows that she had received Rs.8 lacs as full and final settlement and she also undertook to appear before the Court for giving her statement for quashing of the present FIR but she did not turn up to support the compromise. The intention of respondent wife is clear that she wants to harass the petitioner husband who has already performed her part of settlement. The Hon'ble Supreme Court in the case of **Ruchi Agarwal's** (supra) has held that in such like situation where the intention of the wife is to harass the petitioner-husband, continuation of criminal proceedings against the petitioner would be an abuse of the process of the Court especially when the petitioner-husband has performed his part of settlement and the respondent-wife is not coming forward to make statement in support of the compromise. Under these circumstances, the validity of the compromise cannot be negated.

A bare perusal of statutory provision of the 482 Cr.P.C. would show that the High Court may make such orders, as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Section 320 Cr.P.C.

is equally relevant for consideration, which prescribes the procedure for compounding of the offences under the Indian Penal Code.

Keeping in view the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, the continuation of criminal prosecution would be a futile exercise. The Hon'ble Supreme Court in a number of cases including ***Narinder Singh and others Versus State of Punjab and another, 2014 (6) SCC 466***; ***B.S.Joshi and others vs State of Haryana and another (2003) 4 Supreme Court Cases 675*** followed by this Court in Full Bench case of ***Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052*** have dealt with the proposition involved in the present case and settled the law.

Thereafter, Hon'ble Supreme Court in *Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303* further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in *State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335*. Para 61 of the judgment reads as under:-

“61. 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 a 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, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the 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 the affirmative, the High Court shall be well

within its jurisdiction to quash the criminal proceeding.”

Applying the law settled by Hon'ble Supreme Court in plethora of judgments and this High Court, it is apparent that when the parties have entered into a compromise, then continuation of the proceedings would be merely an abuse of process of the Court and by allowing and accepting the prayer of the petitioner by quashing the FIR would be securing the ends of justice, which is primarily the object of the legislature enacting under Section 482 Cr.P.C.

As a result, this Court finds that the case in hand squarely falls within the ambit and parameters settled by judicial precedents and hence, FIR No.91, dated 29.05.2015, under Sections 498-A/326/323/324/341/506/201 of IPC, at Police Station Samana, District Samana, is hereby quashed *qua* all the petitioners on the basis of compromise. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and their statements recorded before the Court below.

Petition stands allowed.

31.10.2022

dharamvir

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No