

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

Crl. Misc. No. M- 35355 of 2009 (O&M)

Date of Decision: November 30, 2010

Harjinder Singh and othersPetitioners

Versus

State of Punjab and anotherRespondents

CORAM : HON'BLE MRS. JUSTICE SABINA

Present : Mr. Gurcharan Dass, Advocate,
for the petitioners.

Mr. Amandeep Singh Rai, AAG, Punjab.

Mr. M.J.S. Bedi, Advocate for
Mr. B.P. Singh, Advocate,
for respondent No.2.

Respondent No.2 in person.

SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure for quashing of FIR No.42 dated 5.5.2007, under Sections 498-A,406,323 and 34 of Indian Penal Code (in short 'IPC') registered at Police Station Dialpur, District Bathinda and consequent proceedings arising therefrom on the basis of compromise (Annexure P-4).

Learned counsel for the petitioners has submitted that now with the intervention of the relatives and friends the parties have arrived at a compromise. Petitioner No.1 and respondent No.2 have got a decree of divorce on the basis of mutual consent.

Respondent No.2, who is present in person along with her counsel, has admitted the factum of compromise between the parties and has stated that she has no objection if the FIR is ordered to be quashed as the parties have settled all their disputes. Respondent No.2 has tendered her reply by way of an affidavit wherein she has stated that she has no objection if the FIR in question is ordered to be quashed. Respondent No.2 has further stated that she will not raise any objection qua the receipt of articles by petitioner No.1, which are lying in the police station.

As per the Full Bench judgment of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, 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 felt that the same was required to prevent the abuse of the process of any Court or to otherwise 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 **Nikhil Merchant vs. Central Bureau of Investigation and another JT 2008 (9) SC 192** in para Nos.26 and 24 has held as under :-

“26. In the instant case, the disputes between the Company and the Bank have been set at rest on the basis of the compromise arrived at by them whereunder the dues of the Bank have been cleared and the Bank does not appear to have any further claim against the Company. What, however, remains is the fact that certain documents were alleged to have been created by the appellant herein in order to avail of credit facilities beyond the limit to which the Company was entitled. The dispute involved

herein has overtones of a civil dispute with certain criminal facts. The question which is required to be answered in this case is whether the power which independently lies with this Court to quash the criminal proceedings pursuant to the compromise arrived at, should at all be exercised?

24. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of the Court in **B.S. Joshi's** case (supra) and the compromise arrived at between the Company and the Bank as also clause 11 of the consent terms filed in the suit filled by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.”

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. The FIR No.42 dated 5.5.2007, under Sections 498-A,406,323 and 34 IPC, registered at Police Station Dialpur, District Bathinda and consequent proceedings, arising therefrom, are quashed.

November 30, 2010
Anand

(SABINA)
JUDGE