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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc. No. M-39938 of 2012 (O&M)

Date of Decision : January 31st, 2013

Kasim and others

..... Petitioners

Versus

Union Territory, Chandigarh
and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE VIJENDER SINGH MALIK

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present Mr. Chanchal K.Singla, Advocate,
for the petitioners.

Mr. Preetpal Singh, Advocate,
for U.T. Chandigarh.

Mr. Rajni Kant, Advocate,
for respondent No.2.

VIJENDER SINGH MALIK, J.

Kasim and five others, the petitioners have brought this petition under the provisions of section 482 Cr. P.C., for quashing of FIR No.411 dated 13.11.2012 (Annexure P1) registered at Police Station Sector 31, Chandigarh for an offence punishable under sections 147, 323 and 506 IPC read with section 149 IPC alongwith all the subsequent proceedings arising out of the same on the basis of compromise (Annexure P2).

While issuing notice of motion, the parties were directed to appear before learned Illaqa Magistrate on 7.1.2013 for getting their

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statements recorded in support of the compromise. Learned Judicial Magistrate Ist Class, Chandigarh has sent his report in this regard through learned District & Sessions Judge, Chandigarh. He has reported that he had recorded the statements of the parties, who have supported the factum of compromise. He has concluded his report by submitting that the parties have already settled their grievances amicably and that the compromise arrived at between them through the intervention of the respectable persons and relatives, is without any pressure or coercion from anyone.

The contested decisions made by the courts may leave scars on the litigants losing the battle. In a decision based on compromise, none is a loser and, therefore, it does not leave any such scar. Compromise not only brings peace and harmony between the parties to a dispute but also restores tranquility in the society. Taking restoration of peace and harmonious relations between the parties and order in the society as the prime concerns of law, it has been held by this court in **Dharambir Vs. State of Haryana, 2005 (3) RCR (Criminal) 426** that a non compoundable matrimonial offence could be quashed on the basis of compromise between the parties. However, the said decision left a gap as it did not cover the cases other than the cases for matrimonial offences. A Larger Bench of five Hon`ble Judges of this court in **Kulwinder Singh and others Vs. State of Punjab and another 2007 (3) RCR (Criminal) 1052** took the following decision with regard to the other non-compoundable offences:-

“29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. which can

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affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in noncompoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.”

The FIRs/complaints in non-compoundable offences could, therefore, be quashed on the basis of compromise. It is so because after compromise, no evidence supporting the prosecution is possible to come on the record and possibility of conviction of the accused becomes bleak. However, before accepting the petition and quashing the proceedings, the court has to satisfy itself that the compromise is just and fair in which no party is taking undue benefit. The compromise in hand not only satisfies the above said requirements, but also appears to be securing the ends of justice. I, therefore, find that the matter has been amicably settled between the parties without their being any pressure on anyone. Hence, the petition is allowed and FIR No.411 dated 13.11.2012 (Annexure P1) registered at Police Station Sector 31, Chandigarh for an offence punishable under sections 147, 323 and 506 IPC read with section 149 IPC along with all the subsequent proceedings arising out of the same is quashed.

(VIJENDER SINGH MALIK)
JUDGE

January 31st, 2013
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