

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

Cr.MMO No. 397 of 2018

Date of Decision: 28.9.2018.

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| Kapil Chadha and Others. |Petitioners |
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Versus

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| State of H.P & another |Respondent. |
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Coram:

The Hon'ble Mr. Justice Sureshwar Thakur, Judge.

Whether approved for reporting?¹

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| For the petitioner: | Mr. Dalip K Sharma, Advocate. |
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| For the Respondents: | Mr. Hemant Vaid, Additional Advocate General with Mr. Vikrant Chandel and Mr. Yudhveer Singh Thakur, Deputy Advocate Generals, for respondent No. 1. |
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Respondent No.2 ex-parte.

Sureshwar Thakur, J (oral)

Respondent No. 2, despite service, neither appeared in person, nor, represented by any counsel, hence she is ordered to be proceeded against ex-parte.

¹ Whether reporters of the local papers may be allowed to see the judgment?

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2. The instant petition stands instituted at the instance of the petitioners, under Section 482 of Cr.P.C, for seeking relief qua quashing of FIR No. 177 of 2013, registered with Police Station, Barmana District Bilaspur, H.P.,S, wherein the petitioners herein are alleged to commit offences punishable under Sections 498-A and 506 read with Section 34 of Indian Penal Code. Besides a prayer has been made therein qua criminal proceeding in consequence therewith, launched against, the petitioner herein, and, pending before the Court concerned, being also ordered to be quashed and set aside.

3. In pursuance to a settlement, borne in Annexure A-3, appended with the petition, this Court had proceeded to render a decree for dissolution of marriage inter-se respondent No.2 herein and appellant No.1 Kapil Chadha. The rendition of the aforesaid decree hence occurred in pursuance, to one Kapil Chaddha, and, one Sunita, rendering their respectively recorded statements on oath, wherein, they accepted, all the recitals borne in Annexure A-3. Further more, when Clause 5

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of Annexure A-3, carries therein a recital qua respondent No.2 herein, rather undertaking to withdraw, all sorts of complaints, hence, the prayer made in the present petition is allowed.

4. Further more, even though some offences constituted in the FIR may not be compoundable, hence, obviously theirs being settled, through, a deed of compromise may also not be permissible. However, in the face of a verdict of the Hon'ble Apex Court, rendered, in case titled ***Gian Singh*** Versus ***State of Punjab & another***, reported in (2012) 10 SCC 303, the relevant paragraph whereof is extracted hereinafter, wherein it stands mandated (i), that, where the victim(s) of the offence, and, the accused come to record, a settlement/strike, a, compromise even qua non-compoundable offences (ii) thereupon hence would rather not pave way, for, the success of the complaint/prosecution rather the prosecution of the offender, for, his allegedly committing the apt non-compoundable offences, would be an exercise in

futility, and, comprising also hence a preponderant and preeminent factor, to be borne in mind, by this Court, while exercising the plenary jurisdiction vested in it, under, Section 482 Cr.P.C.

“58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by the public servants while working in that capacity,

the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”

5. In aftermath, when it is also mandated therein, that for (i) securing/restoring peace, and, for putting the dispute inter-se the victim/complainant of the offence and the accused, to rest, the Courts of law can proceed to accept, the,

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settlement, even when, some of the offences constituted in the FIR are non-compoundable (ii) thereupon revering the verdict, of, the Hon'ble Apex Court, this Court, while accepting the settlement borne in Annexure A-3, is constrained to allow the petition. Accordingly, FIR aforesaid, and, the criminal proceedings pending against the accused/petitioner in the Court concerned, are, quashed and set aside.

Petition stands disposed of, as also, pending applications, if any.

28th September, 2018
(priti)

(**Sureshwar Thakur**),
Judge.