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**(2013) 12 P&H CK 0093**

**In the Punjab And Haryana At Chandigarh**

**Case No : Criminal Miscellaneous No. M-40579 of 2013**

Debjit Dutta and Another

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

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**Date of Decision : 20-12-2013**

**Acts Referred:**

**Citation : (2013) 12 P&H CK 0093**

**Hon'ble Judges : Mehinder Singh Sullar, J**

**Bench : Single Bench**

**Advocate : Satbir Rathore, for the Appellant; Sagar Deswal, AAG, Haryana for respondent No. 1 and Mr. Sushil Bhardwaj, Advocate, for the Respondent**

**Final Decision : Allowed**

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## **Judgement**

Mehinder Singh Sullar, J.—The matrix of the facts & material, which needs a necessary mention for the limited purpose of deciding the core controversy, involved in the instant petition and emanating from the record, is that, initially, in the wake of complaint of complainant Debarati Roy @ Dutta (respondent No. 2), wife of Debjit Dutta (for brevity "the complainant"), a criminal case was registered against petitioners-accused Debjit Dutta (husband) and Sandhya Rani Dutta (mother-in-law), by way of FIR No. 135 dated 2.3.2013 (Annexure P-1), on accusation of having committed the offences punishable under Sections 498A, 406 and 506 IPC by the police of Police Station Civil Lines, Gurgaon. After completion of the investigation, the police submitted the final police report (challan) against the petitioners-accused to face the trial of indicated offences in the trial Court.

2. During the pendency of the criminal case, good sense prevailed and the parties have amicably settled their matrimonial disputes, by virtue of compromise deed dated 13.9.2013 (Annexure P-2).

3. Having compromised the matter, now the petitioners-accused have preferred the present petition, to quash the impugned FIR (Annexure P-1) and all other

subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.P.C. inter-alia, pleading that they are residing in the State of West Bengal. Now with the intervention of respectables of the society and their relatives, the parties have amicably settled their matrimonial disputes, by means of settlement/ compromise deed (Annexure P2). Petitioner No. 1 and respondent No. 2 have decided to live separately. In pursuance of the settlement, they have already filed a joint petition for dissolution of their marriage by mutual consent u/s. 13B of the Hindu Marriage Act, 1955 (hereinafter to be referred as "the Act"). The settlement is stated to be in the welfare, benefit and larger interest of the parties. The complainant has no objection if the criminal case registered against the petitioners-accused, by way of impugned FIR is quashed. On the strength of aforesaid grounds, they sought to quash the impugned FIR (Annexure P-1) and all other consequent proceedings arising thereto in the manner depicted here-in-above.

4. During the course of preliminary hearing, the trial Court was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the settlement (Annexure P2), by a Coordinate Bench of this Court (Naresh Kumar Sanghi, J.), vide order dated 2.12.2013.

5. In pursuance thereof, having recorded the statements of all the concerned parties, the trial Court concluded, vide its report dated 9.12.2013 that the settlement is voluntarily, valid, genuine and without any kind of pressure.

6. Meaning thereby, it stands proved on record that the parties have amicably settled their matrimonial disputes, by virtue of settlement (Annexure P2). The factum of compromise is reiterated in the indicated report of the trial Court. Learned counsel for complainant has also acknowledged the factum of compromise.

7. What cannot possibly be disputed here is that, the law with regard to the settlement of matrimonial disputes by way of amicable settlement between the parties is no more res integra and is now well-settled.

8. An identical question (recently) came to be decided by the Hon"ble Apex Court in case Gian Singh Vs. State of Punjab and Another, . Having interpreted the relevant provisions and considered a line of the judgments on the indicated points, it was ruled (para 57) 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 u/s 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.

9. Such thus being the legal position and the material on record, now the short and significant question, though important, that arises for determination in this petition is, as to whether the present criminal prosecution against the petitioners deserves to be quashed in view of the compromise or not?

10. Having regard to the contentions of the learned counsel, to my mind, it would be in the interest and justice would be sub-served, if the parties are allowed to compromise the matter. Moreover, learned counsel are ad idem that, in view of the settlement of disputes between the parties, the instant petition deserves to be accepted in this respect.

11. As is evident from the record that, the petitioners are residing in the State of West Bengal. Now with the intervention of respectables of the society and their relatives, the parties have amicably settled their matrimonial disputes, by means of settlement/compromise deed (Annexure P2). Petitioner No. 1 and respondent No. 2 have decided to live separately. They have already filed a joint petition for dissolution of their marriage by mutual consent u/s. 13B of the Act. The

settlement is stated to be in the welfare, benefit and larger interest of the parties. The complainant has no objection if the criminal case registered against the petitioners-accused, by virtue of impugned FIR (Annexure P1) is quashed. The factum and genuineness of the compromise is also reiterated in the pointed report of the trial Court.

12. Therefore, it would be seen that since, the compromise is in the welfare and interest of the parties, so, there is no impediment in translating their wishes into reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in peace and to enjoy the life and liberty in a dignified manner. Thus, to me, the ratio of the law laid down and the bench-mark set out by the Hon"ble Supreme Court in Gian Singh's case (supra), "mutatis mutandis" is applicable to the facts of the present case and is the complete answer to the problem in hand. Sequelly, the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case.

13. In the light of the aforesaid reasons, the present petition is accepted. Consequently, the impugned FIR No. 135 dated 2.3.2013 (Annexure P-1) and all other consequent proceedings arising thereto, are hereby quashed. The petitioners-accused are accordingly discharged from the indicated criminal case on the basis of compromise. Needless to mention that if any of the parties fail to comply with the terms & conditions of the settlement (Annexure P2), in that eventuality, the aggrieved party would be at liberty to file a petition for appropriate relief in accordance with law.