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**(2014) 09 RAJ CK 0037**

**In the Rajasthan High Court**

**Case No :** Criminal Misc. Petition No. 125/2013

Suman and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

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**Date of Decision :** 29-09-2014

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482 — Hindu Marriage Act, 1955 - Section 13, 9 — Penal Code, 1860 (IPC) - Section 406, 498-A

**Citation :** (2014) 09 RAJ CK 0037

**Hon'ble Judges :** Nisha Gupta, J.

**Bench :** Single Bench

**Advocate :** Nitin Jain, for the Appellant; Jitendra Shrimali, Public Prosecutor, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

Nisha Gupta, J.?This misc. petition u/S.482 Cr.P.C. has been filed for quashing of FIR No. 193/2012 registered at Police Station Mahila Thana (West) Jaipur (West) for offence u/Ss. 498-A and 406 IPC on the basis of compromise arrived at between petitioner No. 3-husband and respondent No. 2-wife before the Mediation Center, Supreme Court.

2. The facts giving rise to the filing of this petition in brief are that marriage of petitioner No. 3-Siddharsh Rinwa took place with respondent No. 2-Smt. Divya Rinwa according to the Hindu rites on 01/11/2006. Petitioner No. 2-Shri Mahendra Kumar Rinwa and petitioner No. 1-Smt. Suman are father & mother of petitioner No. 3-Siddharsh Rinwa and respondent No. 3-Shri B.R. Gwala is father of respondent No. 2-Smt. Divya Rinwa. After marriage, the marital relations of petitioner No. 3 and respondent No. 2 got strained due to which, respondent No. 2 refused to live in the matrimonial house. Petitioner No. 3 filed an application in the court of learned Additional Sessions Judge, S.A.S. Nagar Mohali (Punjab) u/ S.9 of the Hindu Marriage Act, 1955 but in rebuttal, respondent No. 2 filed a complaint before the court of learned Additional Civil Judge (Junior Division) and

Judicial Magistrate No. 11, Jaipur Metropolitan on 26/03/2012 claiming maintenance. Petitioner No. 3 ultimately filed a divorce petition in the court of learned Additional Sessions Judge, S.A.S. Nagar Mohali (Punjab) u/S.13 of the Act of 1955 vide Ann. 2. To counter blast the divorce petition, respondent No. 2 lodged FIR (Ann. 5) against petitioners for offence u/Ss. 498-A and 406 IPC. Thereafter, the matter went upto the Mediation Center, Supreme Court, where both the parties entered into an amicable settlement on 22/10/2013, on the basis of which, both the parties have filed a joint application before this Court with the signatures of both the parties and with the prayer that FIR should be quashed on the basis of compromise arrived at between them before the Mediation Center, Supreme Court.

3. The said application has been registered as Application No. 8673/2014 dated 11/08/2014 and both the counsel for the parties have affirmed today in the court that this petition should be disposed off and the impugned-FIR should be quashed on the basis of that very compromise and reliance has been placed on Jagdish Chanana and Others Vs. State of Haryana and Another, wherein it was held:--

"The fact that a compromise has indeed been recorded is admitted by all sides and in terms of the compromise the disputes which are purely personal in nature and arise out of commercial transactions, have been settled in terms of the compromise with one of the terms of the compromise being that proceedings pending in court may be withdrawn or compromised or quashed, as the case may be. In the light of the compromise, it is unlikely that the prosecution will succeed in the matter. We also see that the dispute is a purely personal one and no public policy is involved in the transactions that had been entered into between the parties. To continue with the proceedings, therefore, would be a futile exercise."

Further reliance has been placed on Nikhil Merchant Vs. Central Bureau of Investigation and Another, wherein it was held:

"On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this 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 filed 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."

In Shiji @ Pappu & Ors. v. Radhika & Anr, (2011) 10 SCC 705 it was held:

"It was a case which has its origin in the civil dispute between the parties, which dispute has, it appears, been resolved by them. That being so, continuance of the prosecution where the complainant is not ready to support the allegations which are now described by her as arising out of some misunderstanding and misconception will be a futile exercise that will serve no purpose. It is noteworthy that the two alleged eye witnesses, who are closely related to the complainant,

are also no longer supportive of the prosecution version. The continuance of the proceedings is thus nothing but an empty formality. Section 482 Cr.P.C. could, in such circumstances, be justifiably invoked by the High Court to prevent abuse of the process of law and thereby preventing a wasteful exercise by the Courts below."

In *B.S. Joshi and Others Vs. State of Haryana and Another*, , the Supreme Court held:

"In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

In *Jayrajsingh Digvijaysingh Rana v. State Of Gujarat & Anr.* 2012 Cr.L.R. (SC) 743 it was held:

"In such bona fide circumstances, the power under Section 482 may be exercised. Further, in view of the settlement arrived at between Respondent No. 2-the complainant and the appellant (Accused No. 3), there is no chance of recording a conviction insofar as the present appellant is concerned and the entire exercise of trial is destined to be an exercise in futility. Inasmuch as the matter has not reached the stage of trial, we are of the view that the High Court, by exercising the inherent power under Section 482 of the Code even in offences which are not compoundable under Section 320, may quash the prosecution. However, as observed in *Shiji* (supra), the power under Section 482 has to be exercised sparingly and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. In other words, the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law."

In *Gian Singh Vs. State of Punjab and Another*, , it was held:

"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 victim and the offender and 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 F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of 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."

4. Considering the fact that the offence alleged against the petitioners is more in the nature of personal wrong, rather than a threat to the society at large, considering the fact that parties have entered into a compromise, considering the joint statement of petitioner No. 3 and respondent No. 2 mentioned above, this Court is of the opinion that the FIR should be quashed and set-aside against all the petitioners.

Consequently, the petition under Section 482 Cr.P.C. is hereby allowed and FIR No. 193/2012 registered at Police Station Mahila Thana (West) Jaipur (West) for offence u/Ss. 498-A and 406 IPC is quashed and set-aside on the basis of compromise arrived at between the parties before the Mediation Center, Supreme Court.