

(2015) 06 SHI CK 0065

In the High Court Of Himachal Pradesh

Case No : Criminal Revision No. 179 of 2014

Varinder Kumar Chopra and Others

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 22-06-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173, 239, 482
Penal Code, 1860 (IPC) — Section 34, 406, 498A, 498-A

Citation : (2015) 06 SHI CK 0065

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

**Advocate : N.S. Chandel, for the Appellant; Vivek Singh Attri, Dy. A.G.,
Advocates for the Respondent**

Final Decision : Disposed off

Judgement

Sureshwar Thakur, J.—The petitioners herein have instituted the instant Criminal Revision Petition before this Court for setting-aside the orders rendered by the learned Additional Chief Judicial Magistrate, Palampur whereby the application preferred by the petitioners before him under Section 239 Cr.P.C for theirs being discharged, stood dismissed. Besides a prayer has been made in the petition for the quashing of the proceedings commenced/initiated on consummation of investigation by the Investigating Officer, on an F.I.R. lodged against the petitioners by the complainant Aarti Sood for the former having allegedly committed offence under Section 498A, 406 read with Section 34 IPC. During the pendency of this petition before this Court the parties had submitted/tendered a compromise struck inter se them. The counsel for the respondent/complainant authorized by the latter to make a statement on her behalf in tandem with the recitals of the compromise struck inter se the petitioners/accused and the respondent/complainant, has stated on oath that the F.I.R unraveling the commission of offences by the accused/petitioners, besides the proceedings pending before the Criminal Court of competent jurisdiction against the petitioners/accused herein arising from a report filed under Section 173 Cr.P.C.

by the Investigating Officer concerned be both quashed and set-aside. The said statement on oath on behalf of the respondent/complainant by her counsel is anchored on the preeminent fact of the settlement/compromise struck inter se them being motivated by the prime consideration of begetting amity, peace and cordiality inter se them.

2. 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 in a judgment reported in *Gian Singh Vs. State of Punjab and Another*, (2012) 9 JT 457 : (2012) 9 JT 426 : (2012) 9 SCALE 257 : (2012) 10 SCC 303 , the relevant paragraph whereof is extracted hereinafter mandating that where the victim of the offence and the accused come to record a settlement/strike a compromise even qua offences which are not compoundable, hence would rather not pave way for the success of the complaint/prosecution rather the prosecution of the offender for his having committed the alleged non-compoundable offences, would be an exercise in futility, is 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."

3. As such, when it is mandated therein that to secure/restore peace and put the dispute inter se the victim of the offence and the accused to rest, the courts of law can proceed to accept the settlement even when some of the offences constituted in the FIR are non-compoundable. Revering the verdict of the Hon"ble Apex Court, this Court accepts the joint proposal of the petitioners/accused and complainant to settle/compromise the dispute comprised in the FIR even when some of the offence constituted therein are not compoundable. Consequently, while accepting the compromise, evidenced in the respective statements of the counsel for the respondent and the petitioners herein recorded before this Court, the petition is allowed. The compromise shall form a part of this order. Accordingly, FIR No. 112 of 2010 registered at Police Station Palampur of 3.5.2010 under Section 498-A, 406 read with Section 34 IPC and the criminal proceedings pending against the accused/petitioners, Varun Chopra and Ankush Chopra in the Court of learned Additional Chief Judicial Magistrate, Palampur, Case No. 74-II of 2012 are quashed and set aside. Moreover, it is open for the counsel for the parties herein to move the appropriate Courts concerned for making an appropriate motion before them for withdrawal of any pending civil/criminal disputes inter se them including a case under the Domestic Violence Act. Since an amount of Rs. 2,36,000/- has been stated by the counsel for the complainant/respondent herein to be deposited in the Registry of this Court, as such, in adherence to the recitals in the compromise struck inter se them, it is open to the counsel for the complainant/respondent to move an appropriate application before this Court for its being released in her favour after the withdrawal of all cases pending inter se the contesting parties before different Courts. It is made clear that all complaints before the authorities concerned made by the complainant Aarti Sood against Varun Chopra and other family members in respect to their matrimonial ties shall be deemed to after the passing of this order, have been withdrawn by her. The petition stands disposed of accordingly.