

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM No. M-1010 of 2017 (O&M)
Date of decision: 01.06.2017**

Bal Krishan Saini and others

..... Petitioners.

Versus

State of Punjab and another

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Animesh Sharma, Advocate, for the petitioners.

Mr. K.D. Sachdeva, Addl.A.G., Punjab.

Mr. Amandeep Singh Talwar, Advocate, for respondent No.2.

LISA GILL, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No. 12 dated 06.09.2013 (**Annexure P-1**) registered under Sections 406 and 498-A of the Indian Penal Code (for short 'IPC') at Police Station NRI, District Ludhiana City and all other consequential proceedings arising therefrom on the basis of an amicable settlement (**Annexure P-2**) arrived at between the parties.

The above said FIR was registered at the behest of respondent No. 2-Smt. Ramandeep Kaur. The dispute arose between the parties because of matrimonial discord between petitioner No.3 and respondent No.2.

With the intervention of respectables, elders and relatives, the matter has been amicably resolved between the parties. The terms and conditions of the compromise were reduced into writing on 21.10.2016. The compromise is on record of this petition as Annexure P-2.

It is submitted that petitioner No.3 was declared to be a proclaimed offender vide order dated 21.02.2015 (Annexure P-5) in clear

violation of the provisions of law as petitioner No. 3 was not in India even at the time of registration of the FIR on 06.09.2013. Petitioner No. 3, it is submitted, has not visited India since prior to the registration of the FIR till today. Order dated 21.02.2015 is liable to be set aside and cannot be an impediment for quashing of the aforesaid FIR. Furthermore, the matter has been amicably resolved between the parties. Petitioner No. 3 and respondent No. 2 have parted ways. Petition under Section 13-B of the Hindu Marriage Act has since been allowed on 22.05.2017. A photocopy of the said decision produced in Court today is taken on record subject to just exceptions. It is not disputed by the respondents that petitioner No. 3 was not in India at the time of registration of the FIR and neither has he visited India since then.

This Court on 24.03.2017 directed the parties to appear before the learned Illaqa Magistrate/trial Court for recording their statements in respect to the above-mentioned compromise. Learned trial court/Illaqa Magistrate was directed to submit a report regarding the genuineness of the compromise, as to whether it has been arrived at out of the free will and volition of the parties without any coercion, fear or undue influence. Learned Illaqa Magistrate/trial court was directed to intimate whether the petitioners are proclaimed offenders and whether any other case is pending against them.

Pursuant to order dated 24.03.2017, the parties appeared before the learned Judicial Magistrate 1st Class, Ludhiana and their statements were recorded on 17.04.2017. Respondent No.2 stated that the matter has been amicably resolved with all the accused petitioners. The settlement has been arrived at voluntarily, without any threat, coercion or undue pressure. Mention has been made regarding the pendency of petition under Section 13-B of the Hindu Marriage Act and receipt of part payment as per settlement. Respondent

No. 2 stated that she has no objection to the quashing of the above said FIR against all the petitioners after receipt of remaining amount of ₹ 4.15 lakhs as per settlement. It is not in dispute that the said amount has since been received by her. Joint statement of all the petitioners (petitioner No. 3 through his Power of Attorney holder and father, Sh. Bal Krishan Saini) in respect to the settlement was recorded.

As per report dated 20.04.2017, submitted by the learned Judicial Magistrate 1st Class, Ludhiana, it is opined that the settlement between the parties is genuine, arrived at out of the free will of the parties, without any inducement, threat or pressure. It is noted that petitioner No. 3 was declared to be a proclaimed offender.

Learned counsel for the complainant/respondent No.2 reaffirms and verifies the factum of settlement between the parties. It is stated that respondent No. 2 has no objection, whatsoever, to the quashing of the above mentioned FIR along with consequential proceedings including order dated 21.02.2015, declaring petitioner No. 3 to be a proclaimed offender.

Learned counsel for the State on instructions from ASI Dalbir Singh, Police Station NRI, Ludhiana submits that the present being a matrimonial dispute, the State has no objection to the quashing of this FIR on the basis of a settlement between the parties.

In **Kulwinder Singh and others versus State of Punjab and another** 2007 (3) R.C.R. (Criminal) 1052, a five member Bench of this Court has observed as under:-

“The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Criminal Procedure Code is used to enhance such a compromise which, in turn, enhances the

social amity and reduces friction, then it truly is “finest hour of justice”.

The Hon'ble Supreme Court in **B.S.Joshi and others v. State of Haryana**, 2003(4) SCC 675 has observed that it becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

In view of the above, it would be in the interest of justice to quash the abovesaid FIR as no useful purpose would be served by continuance of the present proceedings. It will only lead to wastage of precious time of the court and would be an exercise in futility.

This petition is, thus, allowed and FIR No. 12 dated 06.09.2013 registered under Sections 498-A and 406 of the IPC at Police Station NRI, District Ludhiana City alongwith all consequential proceedings arising therefrom including order dated 21.02.2015, declaring petitioner No. 3 to be a proclaimed offender are hereby quashed.

(LISA GILL)
JUDGE

01.06.2017

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Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*