

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

CRM No. M-1206 of 2017

Date of decision: 17.05.2017

Suresh Kumar @ Jony and another

..... Petitioner

Versus

State of Punjab and another

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Karan Chaudhary Advocate, for the petitioners.

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

Mr. Deepak Bandh, 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. 118 dated 10.10.2015 (**Annexure P-1**) registered under Sections 376,420,120-B of the Indian Penal Code (for short 'IPC') at Police Station Dhariwal and all other consequential proceedings arising therefrom.

It is submitted that the above said FIR is a fall out of matrimonial discord between petitioner No. 1 and respondent No. 2. Apart from the fact that the offences punishable under Sections 376,420 and 120-B of the IPC are not made out against the petitioners, the matter has been amicably resolved between the parties. It is to be noted that the allegations attracting the rigours of Section 376 of the IPC have been raised against petitioner No. 1, who was admittedly the husband of respondent No. 2. In this view of the matter, learned counsel for the petitioner submits, the aforesaid FIR is clearly unsustainable. Moreover, petition under Section 13-B of the Hindu Marriage Act, 1955 filed by petitioner No. 1 and respondent No. 2 has since been allowed on 24.03.2017. It is, thus prayed that this petition be allowed.

This Court on 16.03.2017 directed the parties to appear before the learned Area Magistrate for recording their statements in respect to the above-mentioned compromise. Learned Area 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 threat, coercion or undue pressure. Learned Area Magistrate was directed to intimate whether the petitioners are proclaimed offenders and whether any other case is pending against them.

Pursuant to order dated 16.03.2017, the parties appeared before the learned Chief Judicial Magistrate, Gurdaspur and their statements were recorded on 24.03.2017 and 28.03.2017. Respondent No. 2 i.e. the wife of petitioner No. 1 has stated that the matter has been amicably resolved with the intervention of respectables. The settlement has been arrived at out of her own free will, without any coercion or pressure. The terms and conditions of the settlement were reduced into writing on 20.09.2016. Respondent No. 2 stated that she did not wish to pursue the said proceedings and has no objection to the quashing of the aforementioned FIR against the petitioners. A joint statement of the petitioners in respect to the settlement was also recorded.

As per report dated 21.04.2017, submitted by the learned Chief Judicial Magistrate, Gurdaspur it is opined that the compromise/settlement between the parties is genuine, voluntary, arrived at without any threat, coercion or undue pressure.

Learned counsel for the complainant/respondent No. 2 reaffirms and verifies the above mentioned factual position including the fact that the above mentioned FIR is a fall out of matrimonial discord between the parties and rigours of Section 376 of the IPC are not attracted in this case.

Learned counsel for the State on instructions from ASI Jagdish Singh, Police Station Dhariwal affirms that the above said FIR is a fall out of matrimonial discord between petitioner No. 1 and respondent No. 2 and in view of the facts and circumstances of the case, does not raise any serious objection to the quashing of the above said FIR on the basis of a settlement arrived at 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”.

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. 118 dated 10.10.2015 registered under Sections 376,420,120-B of the IPC at Police Station Dhariwal alongwith all consequential proceedings arising therefrom are hereby quashed qua the petitioners.

17.05.2017

PA

(LISA GILL)
JUDGE

Whether speaking/reasoned : *Yes/No.*
Whether reportable : *Yes/No.*