

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

Crl. Misc. No. M-12249 of 2017

Date of Decision : September 18, 2017

Sunil Kumar Petitioner

Versus

State of Punjab and another Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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Present: Mr. Satish Kumar, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Balwinder Singh, Advocate for
Mr. Daljit Singh, Advocate
for respondent No.2.

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LISA GILL, J. (Oral)

Prayer in this petition is for quashing of FIR No.194 dated 18.12.2014 under Sections 406, 498-A IPC registered at City Hoshiarpur along with all other consequential proceedings arising therefrom on the basis of a compromise dated 18.03.2017 (Annexure P2).

The above-said FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband i.e. the petitioner. With the intervention of respectables and relatives, compromise

was arrived at between the parties, the terms of which were reduced into writing on 18.03.2017.

It is informed that petition under Section 13-B of the Hindu Marriage Act, 1955 filed by the petitioner and respondent No.2 is listed for 22.09.2017 for recording of the statements of the parties at second motion. Part of the settled amount has been handed over to respondent No.2 and the rest of the amount shall be handed over to her on 22.09.2017 itself. The petitioner undertakes to do the needful on the said date.

This Court on 17.04.2017 directed the parties to appear before learned trial court for recording their statements in respect to the above-mentioned compromise. Learned trial court 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 trial court was also directed to intimate whether the petitioner is an absconding/proclaimed offender and whether any other case is pending against him. Information was sought as to whether all affected persons are a party to the settlement.

Pursuant to order dated 17.04.2017, the parties appeared before the learned Chief Judicial Magistrate, Hoshiarpur, and their statements were recorded on 23.05.2017. Respondent No.2 stated that the matter has been compromised with the petitioner. Photocopy of the compromise was tendered as Ex.PA. It is further stated that the compromise has been effected out of her own free will and consent, without any coercion or pressure. Respondent No.2 has categorically stated that she has no objection in case the above-said FIR is quashed against the accused-petitioner. Statement of

the petitioner in respect to the settlement was recorded as well.

As per report dated 25.05.2017 received from the learned Chief Judicial Magistrate, Hoshiarpur, it is opined that the Compromise between the parties is genuine, voluntary and without any coercion or undue influence. None of the petitioners are reported to be proclaimed offenders. Statements of the parties are appended along with the said report.

Learned counsel for respondent No.2 reaffirms and verifies the factum of settlement between the parties. It is reiterated that respondent No.2 has no objection to the quashing of the above mentioned FIR against the petitioner subject to strict adherence of the terms and conditions of the settlement arrived at between the parties by the petitioner.

Learned counsel for the State, on instructions from ASI Gurdeep Singh, submits that as the above-said FIR arises out of a matrimonial dispute, the State has no objection to the quashing of the FIR in question as well as all consequential proceedings 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”.

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.

Keeping in view the facts and circumstances of this case, it would be in the interest of justice to quash the above-said FIR as no useful purpose would be served by continuance of the present proceedings. It will merely lead to wastage of precious time of the court and would be an exercise in futility.

This petition is, thus, allowed and FIR No. FIR No.194 dated 18.12.2014 under Sections 406, 498-A IPC registered at City Hoshiarpur along with all consequential proceedings are, hereby, quashed.

However, liberty is afforded to respondent No.2 to file necessary application for revival of the proceedings in the above said FIR, in case the terms and conditions of settlement between the parties are not adhered to by the petitioner or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

18.09.2017
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(LISA GILL)
JUDGE

Note: Whether speaking/reasoned

Yes / No

Whether Reportable:

Yes / No