

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

Crl. Misc. No. M-12772 of 2017

Date of Decision : September 18, 2017

Harsh Mishra @ Hanuman Mishra and others..... Petitioners

Versus

State of Haryana 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. P.R.Yadav, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

None for respondent No.2.

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LISA GILL, J. (Oral)

Prayer in this petition is for quashing of FIR No.161 dated 21.04.2013 under Sections 498-A, 323, 506, 406 IPC registered at Police Station DLF Phase-II, Gurgaon (now Gurugram) along with all other consequential proceedings arising therefrom on the basis of a compromise dated 22.12.2016 (Annexure P2).

The above-said FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband i.e. petitioner No.1. The matter has been amicably resolved on 22.11.2016 before the Additional District and Sessions Judge, Gurgaon. The parties have decided

to part ways.

Learned counsel for the petitioners informs that petition under Section 13-B of the Hindu Marriage Act, 1955 has since been allowed on 28.08.2017. The entire settled amount has been handed over to respondent No.2.

This Court on 05.07.2017 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 any of the petitioners are absconding/proclaimed offenders and whether any other case is pending against them. Information was sought as to whether all affected persons are a party to the settlement.

Pursuant to order dated 05.07.2017, the parties appeared before the learned Judicial Magistrate First Class, Gurugram and their statements were recorded on 25.07.2017. Respondent No.2 stated that she has compromised the matter with all the accused persons and she has no objection in case the above-said FIR is quashed against the accused-petitioners. Joint statement of the petitioners in respect to the settlement was recorded as well.

As per report dated 25.07.2017 received from the learned Judicial Magistrate First Class, Gurugram, it is opined that the settlement between the parties is voluntary and arrived at without any pressure. None of the petitioners are reported to be proclaimed offenders. Statements of the parties are appended along with the said report.

Learned counsel for the State, on instructions from HC Sanjay Kumar, 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. 161 dated 21.04.2013 under Sections 498-A, 323, 506, 406 IPC registered at Police Station DLF Phase-II, Gurgaon (now Gurugram) along with all consequential proceedings are, hereby, quashed.

However, liberty is afforded to respondent No.2 to file

in case the terms and conditions of settlement between the parties are not adhered to by the petitioners 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
Whether Reportable:

Yes / No
Yes / No