

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

Criminal Misc. No. M- 13066 of 2015(O&M)

Date of Decision: July 5 , 2017.

Harcharan Singh PETITIONER(s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. H.S.Randhawa, Advocate
for the petitioner.

Ms. Monika Jalota, DAG, Punjab.

Mr. D.S.Kahlon, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.17 dated 28.02.2013 under Sections 323/328/379/427/498A/313/34 IPC registered at Police Station Begowal, District Kapurthala and all other consequential proceedings arising therefrom on the basis of compromise (Annexure P4) arrived at between the parties.

The abovesaid FIR was registered at the behest of respondent No.2 due to matrimonial discord between the petitioner and respondent No.2. It is to be noted that the abovesaid FIR was registered against the present petitioner as well as his mother Smt. Surinder Kaur. Smt. Surinder Kaur stands acquitted by the learned trial court on 01.08.2015. Subsequently, with the intervention of

respectables and relatives, the matter has been amicably resolved between the parties, the terms of which were reduced into writing vide Annexure P4. The parties wish to live in peace and harmony and put an end to the acrimony between them. It is submitted that respondent No.2 is living alongwith her in-laws family and she does not have any objection to the quashing of the abovesaid FIR.

Statement of the petitioner was permitted to be recorded through his general power of attorney holder i.e. his mother Smt. Surinder Kaur as the petitioner was unable to come to India due to unavoidable circumstances. Respondent No.2 has no objection to the recording of the statement of the petitioner through his mother Smt. Surinder Kaur, the general power of attorney holder.

This Court on 16.03.2017 directed the parties to appear before learned Illaqa Magistrate for recording their statements in respect to the above-mentioned compromise. Learned 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 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 16.03.2017, the parties appeared before the learned Judicial Magistrate First Class, Kapurthala and their statements were recorded on 29.03.2017. Respondent No.2 stated that the abovesaid FIR was registered against the petitioner and her mother-in-law. Her mother-in-law was

acquitted in the said case. The matter has been amicably resolved by respondent No.2 with her husband. It is further stated that the settlement has been arrived at with the intervention of the respectables of the locality without any pressure, threat or coercion in order to maintain harmony amongst the parties. Respondent No.2 stated that she has no objection to the quashing of the abovesaid FIR qua the petitioner. Statement of the petitioner through his power of attorney holder and his mother Smt. Surinder Kaur, was recorded.

As per report dated 15.05.2017 received from the learned Judicial Magistrate First Class, Kapurthala it is opined that the settlement between the parties is genuine arrived at voluntary without any pressure or coercion. The petitioner, it is affirmed, is not a proclaimed offender. The photocopy of the statements of the parties are appended alongwith 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 abovementioned FIR against the petitioner.

Learned counsel for the State, on instructions from ASI Chanan Singh, submits that as the abovesaid FIR arises out of a matrimonial dispute, the State has no objection to the quashing of this 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”.

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 abovesaid 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. 17 dated 28.02.2013 under Sections 323/328/379/427/498A/313/34 IPC registered at Police Station Begowal, District Kapurthala alongwith 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(s) or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

July 5, 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No