

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

**Crl. Misc. No. M-13703 of 2017 (O&M)
Date of Decision : November 08, 2017**

Avtar Singh and anotherPetitioners

Versus

State of Punjab and another Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

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Present: Mr. Sahil Soi, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

Mr. A.S.Syan, Advocate
for respondent No.2.

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LISA GILL, J. (Oral)

Prayer in this petition is for quashing of FIR No.61 dated 27.02.2010 under Section 498-A IPC registered at Police Station Shimlapuri, Ludhiana along with all other consequential proceedings arising therefrom including judgment dated 19.03.2016 passed by the learned Judicial Magistrate 1st Class, Ludhiana, to the extent of conviction of petitioner No.1, on the basis of a compromise arrived at between the parties.

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.

Petitioner No.1 was convicted for the offence punishable under Section 498-A IPC by the learned trial Court vide judgment dated

conviction was preferred by petitioner No.1 and an appeal against acquittal of petitioner No.2 was filed by respondent No.2.

During the pendency of the said proceedings the matter has been amicably resolved between the parties. A petition under Section 13-B of the Hindu Marriage Act, 1955 was filed by petitioner No.1 and respondent No.2. It is informed that the said petition has since been allowed on 07.11.2017. The total amount of ₹16 lacs as settled has been handed over to respondent No.2 as full and final settlement of all her claims-past, present and future qua petitioner No.1. It is, thus, submitted that respondent No.2 has no objection in case the said FIR as well as the judgment dated 19.03.2016 convicting petitioner No.2 is set aside. Respondent No.2 further submits that she does not wish to pursue the appeal filed by her challenging the acquittal of petitioner No.2 and she has no objection in case the said appeal is disposed of in view of the settlement.

Learned counsel for the petitioner relies on a judgment of a Division Bench in *Sube Singh and another v. State of Haryana and another* 2013 (4) R.C.R. (Criminal) 102 to submit that there is no impediment in the quashing of an FIR post conviction at the appellate stage, especially in matrimonial matters.

Pursuant to order dated 13.07.2017, the parties appeared before the learned Additional Sessions Judge, Ludhiana and their statements in respect to the settlement were recorded on 04.08.2017. Respondent No.2 stated that the matter has been amicably resolved with the accused petitioner. Petition under Section 13-B of the Hindu Marriage Act, 1955, it is mentioned, stood filed by the parties. Part of the settled amount i.e. ₹08 lacs by way of Demand Draft was received by her at the time of recording of

their statements at first motion. Respondent No.2 further stated that the settlement has been arrived at out of her own free will, without any pressure, coercion or undue influence. Respondent No.2 categorically stated that she has no objection to the quashing of the aforementioned FIR against the accused subject to strict adherence to the terms and conditions of the settlement between the parties. Statements of both the petitioners in respect to the settlement were recorded as well.

As per report dated 08.09.2017 received from the learned Additional Sessions Judge, Ludhiana, it is opined that the compromise between the parties has been arrived at out of their own free will and consent, without any pressure or threat and appears to be genuine. None of the petitioners is reported to be a proclaimed offender. Statements of the parties are appended along with the said report.

Learned counsel for respondent No.2 affirms and verifies the factum of settlement between the parties as well as the receipt of the full and final amount as per the settlement between the parties. It is reiterated that respondent No.2 has no objection to the quashing of the above-mentioned FIR against the petitioners or to the setting aside of judgment dated 19.03.2016 to the extent of conviction of petitioner No.1. Respondent No.2 further submits that she does not wish to pursue the appeal filed by her challenging the acquittal of petitioner No.2 and she has no objection in case the said appeal is disposed of in view of the settlement.

Learned counsel for the State submits that as the above-said 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.

A Division Bench of this Court in Sube Singh's case (supra) has held as under:-

“The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such is fully justified on facts and circumstances of the case.”

It is held in the above-said case that there is no embargo against invoking the power under Section 482 Cr. P.C. after the conviction of an accused by the trial court and during the pendency of appeal against such conviction.

In the instant case, FIR No.61 dated 27.02.2010 is a fallout of a matrimonial dispute between the parties. The matter has been amicably

resolved between the parties who wish to give a quietus to the entire issue and carry on with their respective lives. Report dated 08.09.2017 submitted by the learned Additional Sessions Judge, Ludhiana, establishes that the compromise between the parties is genuine, arrived at out of their own free will. Therefore, non-acceptance of this compromise would lead to denial of complete justice to parties.

Keeping in view the facts and circumstances of this case, this petition is allowed. The judgment of conviction and order of sentence dated 19.03.2016 passed by the learned Judicial Magistrate 1st Class, Ludhiana, are set aside on the basis of the settlement dated 09.03.2017 arrived at between the parties. FIR No.61 dated 27.02.2010 under Section 498-A IPC registered at Police Station Shimlapuri, Ludhiana along with all consequential proceedings are, hereby, quashed. Resultantly, the appeals preferred by the petitioners as well as by respondent No.2 are rendered infructuous and shall be so declared by the learned appellate court at Ludhiana.

08.11.2017
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(LISA GILL)
JUDGE

Note: Whether speaking/reasoned

Yes / No

Whether Reportable:

Yes / No