

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

**CRM No. M-15304 of 2016
Date of decision:01.06.2017**

Kamlesh Devi and others **Petitioners.**

Versus

State of Haryana and another **Respondents.**

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Jagdish Manchanda, Advocate, for the petitioners.

Mr. Sanjay K. Saini, AAG, Haryana.

Mr. Gurpreet Jayia, 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. 195 dated 26.03.2015 (**Annexure P-1**) registered under Sections 323,406,498-A and 506 of the Indian Penal Code (for short 'IPC') at Police Station Civil Lines, Karnal and all other consequential proceedings arising therefrom on the basis of an amicable settlement (**Annexure P-4**) arrived at between the parties.

The above said FIR was registered at the behest of respondent No. 2-Smt. Neetu. The dispute arose between the parties because of matrimonial discord between petitioner No. 3 and respondent No.2.

With the intervention of respectables, elders and relatives, the matter has been amicably resolved between the parties. Petitioner No.1 and respondent No.3 have decided to part ways. The terms and conditions of the compromise were reduced into writing on 02.05.2016. The compromise is on record of this petition as Annexure P-4.

It is informed by learned counsel for the State on instructions from ASI Manoj Kumar, Police Station Civil Lines, Karnal that petitioner No. 3 was declared to be a proclaimed offender on 27.10.2016.

Admittedly, the present petition was filed prior thereto i.e. on 03.05.2016. It is not denied that petitioner No. 3 has been in Australia since before the registration of FIR on 26.03.2015. In this situation, learned counsel for the petitioner submits that order dated 27.10.2016 having been passed in violation of the provisions of law should be set aside, being a subsequent proceeding arising out of the above said FIR. Furthermore, liberty was afforded to petitioners by this Court for recording of their statements before the competent Court vide order dated 05.09.2016. Specific liberty was afforded to petitioner No. 3 for recording his statement through his Power of Attorney holder namely, Sanjeev Goyal on 27.10.2016 itself.

This Court on 05.09.2016 directed the parties to appear before the learned Illaqa Magistrate/trial Court on 03.10.2016 for recording their statements in respect to the above-mentioned compromise. Learned trial court/Illaqa Magistrate was directed to submit a report regarding the genuineness of the compromise, as to whether it has been arrived at voluntarily, out of free will of the parties. Learned Illaqa Magistrate/trial court was directed to intimate whether the petitioners are proclaimed offenders.

Pursuant to order dated 05.09.2016, the parties appeared before the learned Chief Judicial Magistrate, Karnal. Statements of petitioners No.1 and 2 were recorded on 03.10.2016. Statements of petitioners No. 3 through his Power of Attorney, Sanjeev Goyal was recorded on 27.10.2016 itself. However, respondent No. 2 did not come forward for recording her statement at that time. Her statement has been recorded before the learned Chief Judicial Magistrate, Karnal on 02.05.2017. Respondent No. 2 stated that the matter has been amicably resolved with all the accused persons. The settlement is genuine, arrived at out of her own free will without any kind of pressure, coercion or

undue influence. Respondent No. 2 further stated that she has no objection to the quashing of the aforementioned FIR and consequential proceedings qua all the petitioners.

As per reports dated 28.10.2016 as well as 04.03.2017, submitted by the learned Chief Judicial Magistrate, Karnal it is opined that the settlement between the parties is genuine, voluntary, arrived at out of the free will of the parties.

Learned counsel for the complainant/respondent No.2 affirms and verifies the factum of settlement between the parties. It is not denied that divorce granted to petitioner No. 3 and respondent No. 2 by the Court in Australia has been accepted by both the parties. Respondent No. 2 has received the entire amount due towards her as per the terms and conditions of the settlement. It is stated that respondent No. 2 has no objection to the quashing of the aforementioned FIR and all consequential proceeding qua all the petitioners.

It is not denied that petitioner No. 3 was declared to be a proclaimed offender during pendency of this petition and that too on the same day on which his statement through his Power of Attorney holder was recorded after requisite permission by this Court. He was not present in India since before the registration of the present FIR. It is further not denied that he has not visited India till date. Moreover, the matter which stems from matrimonial discord has been amicably resolved between the parties. Therefore, in order to render complete justice to the parties, it is in the interest of justice to quash the present FIR along with all consequential proceedings including order dated 27.10.2016, declaring petitioner No. 3 to be a proclaimed offender.

Learned counsel for the State on instructions from ASI Manoj Kumar submits that the present being a matrimonial dispute, the State has no objection to the quashing of this FIR on the basis of a settlement 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.

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. 195 dated 26.03.2015 registered under Sections 323,406, 498-A,506 of the IPC at Police Station Civil Lines, Karnal alongwith all consequential proceedings arising therefrom including order dated 27.10.2016, declaring petitioner No. 3 to be a proclaimed offender are hereby quashed.

01.06.2017

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(LISA GILL)
JUDGE

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