

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

Criminal Misc. No. M- 14623 of 2017(O&M)

Date of Decision: September 11 , 2017.

Gurdev Kaur and others PETITIONER(s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Deepak Verma, Advocate and
Mr. Shubhashish Kukreti, Advocate
for the petitioners.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Narinder S.Lucky, Advocate
for the complainant/respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.29 dated 17.05.2016 under Sections 406/498A IPC registered at Police Station Behram, District SBS Nagar and all other consequential proceedings arising therefrom on the basis of a compromise arrived at between the parties as well as order dated 02.01.2017 passed by the learned Judicial Magistrate First Class, SBS Nagar whereby the petitioners have been declared to be proclaimed offenders.

The abovesaid FIR was registered at the behest of respondent No.2 due to matrimonial discord with her husband i.e., petitioner No.3. It is submitted that the petitioners were not present in India at the relevant time therefore, order

dated 02.01.2017 (Annexure P5) was passed without adherence to the provisions of law. Moreover, the matter has been amicably resolved between the parties, the terms of which were reduced into writing on 08.03.2017 (Annexure P3). The parties wish to live in peace and harmony and put an end to the acrimony between them. It is informed that petitioner No.3 and respondent No.2 are now residing together in their matrimonial home in Italy alongwith their minor child.

Petitioner No.2 was admitted to interim bail on 20.07.2017 pursuant to order dated 31.05.2017 passed in this case.

This Court on 10.07.2017 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 10.07.2017, the parties appeared before the learned Judicial Magistrate First Class, SBS Nagar and their statements were recorded on 20.07.2017. Liberty was afforded to petitioners No.1 and 3 as well as respondent No.2 to appear through their respective power of attorney holders for recording statements in respect to the settlement arrived at between the parties. Respondent No.2 through her power of attorney holder (her father) stated that the matter has been amicably resolved with all the petitioners.

Respondent No.2 has been rehabilitated in the matrimonial home. The

compromise, it is stated, has been arrived at voluntarily out of the free will of the parties, without any coercion or undue influence of any kind. It is stated that there is no objection in case the abovesaid FIR is quashed against the accused petitioners. Statements of the petitioners (petitioners No.1 and 3 through their respective power of attorney holders) in respect to the settlement were recorded as well.

As per report dated 09.08.2017 received from the learned Judicial Magistrate First Class, SBS Nagar it is opined that the compromise between the parties is genuine and voluntary, arrived at out of the free will and consent of the parties without any coercion or undue influence. 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 affirmed that respondent No.2 and her husband i.e., petitioner No.3 are living together in Italy alongwith their minor child. Accordingly, respondent No.2 has no objection to the quashing of the abovementioned FIR against all the petitioners provided there is strict adherence to the terms and conditions of the settlement between the parties.

Learned counsel for the State 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.29 dated 17.05.2016 under Sections 406/498A IPC registered at Police Station Behram, District SBS Nagar as well as order dated 02.01.2017 passed by the learned Judicial Magistrate First Class, SBS Nagar 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 petitioners or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

September 11 , 2017.
'om'

(**LISA GILL**)
JUDGE

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