

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

Crl. Misc. No. M-14877 of 2017

Date of Decision : September 18, 2017

Baldev Kumar and another Petitioners

Versus

U.T. Chandigarh 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. Naresh Gopal Sharma, Advocate
for the petitioners.

Mr. Amil Kumar Goyal, APP for U.T. Chandigarh.

None for respondent No.2.

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LISA GILL, J. (Oral)

Prayer in this petition is for quashing of FIR No. 11 dated 23.10.2015 under Sections 406/498-A IPC registered at Police Station Women, Sector 17, Chandigarh along with all other consequential proceedings arising therefrom on the basis of compromise dated 02.03.2017 (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. With the intervention of respectables and relatives, a compromise

was arrived at between the parties, the terms of which were reduced into writing on 02.03.2017. It is informed that petition under Section 13-B of the Hindu Marriage Act, 1955 has since been allowed on 6.9.2017 and the entire settled amount handed over to respondent No.2.

This Court on 20.07.2017 directed the parties to appear before learned trial court/Illaq Magistrate for recording their statements in respect to the above-mentioned compromise. Learned trial court/Illaq 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 trial court/Illaq 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 20.07.2017, the parties appeared before the learned Judicial Magistrate First Class, Chandigarh and their statements were recorded on 06.09.2017. Respondent No.2 stated that the matter has been voluntarily settled by her out of her own free consent and without any undue influence or pressure. She no longer wishes to pursue the present proceedings. It is further stated that petition under Section 13-B of the Hindu Marriage Act, 1955 filed by respondent No.2 and her husband was allowed on the same date i.e. 06.09.2017. Therefore respondent No.2 stated that she has no objection to the quashing of the above said FIR against both the accused-petitioners. Joint statement of the petitioners in respect to the settlement was recorded as well.

As per report dated 11.09.2017 received from the learned

Judicial Magistrate First Class, Chandigarh it is opined that the settlement between the parties is genuine, arrived at out of the free will of the parties without any pressure, coercion or undue pressure from any corner. None of the petitioners are reported to be proclaimed offenders. Statements of the parties are appended along with the said report.

Mr. Sartaj Singh, Advocate, had appeared on behalf of respondent No.2 on 20.07.2017 and had affirmed the factum of settlement between the parties.

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 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

exercise in futility.

This petition is, thus, allowed and FIR No. 11 dated 23.10.2015 under Sections 406/498-A IPC registered at Police Station Women, Sector 17, Chandigarh along with 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 any of the facts projected before this Court today are not correct.

18.09.2017
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(LISA GILL)
JUDGE

Note: Whether speaking/reasoned

Yes / No

Whether Reportable:

Yes / No