

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

Criminal Misc. No. M- 17542 of 2017(O&M)

Date of Decision: August 3 , 2017.

Rohit Sukhija and another PETITIONER(s)

Versus

State of Haryana and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Deepak Gupta, Advocate
for the petitioners.

Mr. Himmat Singh, DAG, Haryana.

Mr. Narinder Singh Swaich, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.34 dated 06.03.2013 under Sections 406/498A/323/506 IPC registered at Police Station Civil Line, Kaithal, District Kaithal and all other consequential proceedings arising therefrom as well as for setting aside judgment dated 01.02.2016 passed by the learned Chief Judicial Magistrate, Kaithal whereby the petitioners have been convicted for the offences punishable under Sections 498A/406 IPC, on the basis of a compromise arrived at between the parties.

The abovesaid FIR was registered at the behest of respondent No.2 due to matrimonial discord with her husband i.e., petitioner No.1. Vide judgment and order dated 01.02.2016 and 03.02.2016, respectively, passed by

the learned Chief Judicial Magistrate, Kaithal the petitioners have been convicted for the offences punishable under Sections 498A/406 IPC. They are sentenced to undergo rigorous imprisonment for three years, besides, pay a fine of ₹5,000/- each for the offence under Section 498A IPC. They have been sentenced to undergo rigorous imprisonment for three years, besides, pay a fine of ₹5,000/- each for the offence under Section 406 IPC. In default of payment of fine, the petitioners to undergo further imprisonment for six months. Both the sentences are ordered to run concurrently.

It is submitted that during pendency of the appeal preferred by the petitioners against their conviction and sentence, the matter has been amicably resolved between the parties with the intervention of respectables and friends. The terms and conditions of the settlement were reduced into writing on 20.03.2017. The parties wish to carry on with their respective lives in peace and harmony after putting an end to the acrimony amongst them. Respondent No.2, it is submitted, no longer wishes to pursue the matter. Petitioner No.1 and respondent No.2 have already been granted divorce by the competent court on 04.02.2014.

Learned counsel for the petitioners submits that as the dispute arose out of matrimonial discord between petitioner No.1 and respondent No.2, conviction of the petitioners under Sections 498A/406 IPC is not an impediment to the quashing of the abovementioned FIR. He relies on a Division Bench judgment of this Court in **Sube Singh and another v. State of Haryana and another, 2013(4) RCR(Criminal) 102.**

This Court on 17.05.2017 directed the parties to appear before

learned appellate court for recording their statements in respect to the above-mentioned compromise. Learned appellate court 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 or undue influence. Learned appellate court was also directed to intimate the number of persons arrayed as accused and whether any of the accused proclaimed offenders.

Pursuant to order dated 17.05.2017, the parties appeared before the learned Additional Sessions Judge, Kaithal and their statements were recorded on 06.07.2017. Respondent No.2 stated that she has amicably resolved the dispute with all the accused petitioners. The compromise has been arrived at by her voluntarily, without any coercion or undue influence. Joint statement of the petitioners in respect to the settlement was recorded as well.

As per report dated 06.07.2017 received from the learned Additional Sessions Judge, Kaithal it is mentioned that the compromise dated 20.03.2017 arrived at between the parties is genuine. None of the petitioners are proclaimed offenders. Statements of the parties are appended alongwith the said report.

Learned counsel for respondent No.2 affirms 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 and consequent setting aside of the judgment of conviction dated 01.02.2016 and order of sentence dated 03.02.2016 passed by the learned Chief Judicial Magistrate, Kaithal.

Learned counsel for the State submits that the present being a matrimonial dispute, the State has no objection to the quashing of this FIR and consequent setting aside of conviction of the petitioners 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 abovesaid 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.34 dated 06.03.2013 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 06.07.2017 submitted by the learned Additional Sessions Judge, Rewari 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 dated 01.02.2016 and order of sentence dated 03.02.2016 passed by the learned Chief Judicial Magistrate, Kaithal are set aside on the basis of the settlement dated 20.03.2017 arrived at between the parties. FIR No.34 dated 06.03.2013 under Sections 406/498A/323/506 IPC registered at Police Station Civil Line, Kaithal, District Kaithal alongwith all consequential proceedings are, hereby, quashed. Resultantly, the appeal preferred by the petitioners is rendered infructuous and shall be so declared by the learned appellate court at Kaithal.

August 3, 2017.
'om'

(**LISA GILL**)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No