

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

Criminal Misc. No.M- 177 of 2017 (O&M)

Date of decision : October 23, 2017

Rajan Sharma and others

.....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Prashant Vashisth, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

None for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 126 dated 27.06.2016 under Section 498A IPC (Section 406 IPC added later) registered at Police Station Derabassi, SAS Nagar, Mohali and all other consequential proceedings arising therefrom on the basis of a compromise arrived at between the parties.

The abovesaid 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 has been arrived at between the parties, the terms of which were reduced into writing on 12.12.2016 (Annexure P-2). Petitioner No.1 and respondent No. 2 decided to part ways. It is informed by learned counsel for the petitioners that petition under Section 13B of Hindu Marriage Act, 1955 (for short –

'the Act') has since been allowed. The entire settled amount has been handed over to respondent No. 2. The present petition has been filed on the basis of this compromise.

This Court on 27.03.2017 directed the parties to appear before learned trial court/Illaqa Magistrate 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 out of the free will and volition of the parties without any coercion, fear or undue influence. Learned trial court/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 27.03.2017, the parties appeared before the learned Sub Divisional Judicial Magistrate, Dera Bassi and their statements were recorded on 11.04.2017. Respondent No.2 stated that the matter has been amicably resolved with the petitioners. It is stated that respondent No. 2 received a sum of ₹50,000/- on 11.01.2017 at the time of recording of the statements at first motion in the petition under Section 13B of the Act and the rest of the amount i.e. ₹1,50,000/- would be paid by petitioner No. 1 on 11.07.2017 at the time of recording of their statements at second motion in the above said petition. Respondent No.2 stated that she has no objection to the quashing of the abovesaid FIR qua the petitioners on the basis of the compromise arrived at between them. The compromise is stated to be genuine, arrived at out of her own free will, without any coercion or undue influence. A joint statement of the petitioners in respect

to the compromise was also recorded.

As per report dated 09.08.2017 received from the learned Sub Divisional Judicial Magistrate, Dera Bassi, it is opined that the settlement between the parties is genuine, arrived at voluntarily between the parties out of their own free will and without any coercion. None of the petitioners is reported to be a proclaimed offender. Statements of the parties are appended alongwith the said report.

Mr. V.K. Kauhsal, Advocate had appeared on behalf of respondent No. 2 on 27.03.2017 when the parties were directed to appear before the learned trial Court/Illaq Magistrate for recording of their statements. He affirmed and verified the factum of settlement between the parties.

Learned counsel for the State, on instructions from HC Paramjit Singh, 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. 126 dated 27.06.2016 under Section 498A IPC (Section 406 IPC added later) registered at Police Station Derabassi, SAS Nagar, Mohali alongwith all consequential proceedings are, hereby, quashed.

October 23, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No