

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

Criminal Misc. No. M- 18523 of 2017(O&M)

Date of Decision: November 6 , 2017.

Abhinav Sharma

..... PETITIONER(s)

Versus

State of Haryana and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Raja Sharma, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Amit Parashar, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.0006 dated 27.01.2016 under Sections 323/34/354A(1)/377/498A/506 IPC registered at Police Station Women, Bhiwani and all other consequential proceedings arising therefrom on the basis of compromise dated 10.03.2017 (Annexure P2) 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., the petitioner. The matter has been amicably resolved between the parties before the Mediation and Conciliation Centre of this Court, the terms of which were reduced into writing on 10.03.2017 (Annexure P2). The petitioner and respondent No.2 decided to

part ways.

It is informed that petition under Section 13B of the Hindu Marriage Act, 1955 has been filed and the same is pending for 08.11.2017 for recording statements of the parties at second motion. It is submitted that part of the settled amount has been handed over to respondent No.2. The petitioner undertakes to hand over the remaining amount to respondent No.2 on 08.11.2017.

This Court on 23.05.2017 directed the parties to appear before learned trial court for recording their statements in respect to the above-mentioned compromise. Learned trial 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, fear or undue influence. Learned trial court 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 23.05.2017, the parties appeared before the learned Judicial Magistrate First Class, Bhiwani and their statements were recorded on 10.07.2017. Respondent No.2 stated that matter has been amicably resolved before the Mediation and Conciliation Centre of this Court. Copy of the Agreement/Settlement was produced as Ex.C1 before the trial court. It is further stated that petition under Section 13B of the Hindu Marriage Act, 1955 has been filed. Respondent No.2 stated that she has since withdrawn her petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 as well as petition under Section 125 Cr.P.C. It is further stated that she has no objection in case the abovesaid FIR against the accused petitioner is quashed.

Statement of the petitioner in respect to the settlement was recorded as well.

As per report dated 10.07.2017 received from the learned Judicial Magistrate First Class, Bhiwani, it is opined that the compromise between the parties is genuine and an outcome of the free consent of both the parties, without any coercion. The petitioner, who is the sole accused, is not reported to be a proclaimed offender, neither involved in any other criminal case. 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 reiterated that respondent No.2 has no objection to the quashing of the abovementioned FIR against the petitioner provided there is strict adherence to the terms and conditions of the settlement by the petitioner.

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 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 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.0006 dated 27.01.2016 under Sections 323/34/354A(1)/377/498A/506 IPC registered at Police Station Women, Bhiwani 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.

November 6 , 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No