

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

Criminal Misc. No. M- 19886 of 2017(O&M)

Date of Decision: August 2 , 2017.

Swaranjit Kaur and others PETITIONER(s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vikas Kuthiala, Advocate
for the petitioners.

Mr. Karambir Singh, AAG, Punjab.

Mr. Baljinder Singh, Advocate
for the complainant/respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.6 dated 27.03.2014 under Sections 406/498A/420/494/120B IPC registered at Police Station NRI/SAS Nagar, District 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 behest of respondent No.2 due to matrimonial discord with her husband i.e., petitioner No.3. The matter has been settled between the parties before the Mediation and Conciliation Centre of this Court on 06.04.2017 (Annexure P4). The parties wish to live in peace and harmony and put an end to the acrimony between them.

This Court on 01.06.2017 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 number of persons arrayed as accused and whether any accused is proclaimed offender.

Pursuant to order dated 01.06.2017, the parties appeared before the learned Judicial Magistrate First Class, SAS Nagar and their statements were recorded on 12.07.2017. Statement of respondent No.2 was recorded through her Power of Attorney holder Raspinder Singh son of late Pritam Singh (an uncle of respondent No.2). It is stated that the matter has been amicably resolved between the parties. The jewellery to the extent of ½ share has been received on behalf of the complainant/respondent No.2. A sum of ₹15,00,000/- out of the total settled amount of ₹30,00,000/- between the parties has also been received on behalf of respondent No.2. It is further stated that a petition under Section 13B of the Hindu Marriage Act, 1955 (for short, the HMA') has been filed, which is pending for recording of the statements of the parties at second motion on 15.01.2018. The remaining amount of ₹15,00,000/- shall be paid at a later stage. Power of attorney holder of respondent No.2 specifically stated that respondent No.2 has no objection to the quashing of the FIR subject to strict adherence by the petitioners, with the terms and conditions of the settlement arrived at between the parties. A joint statement of the petitioners in respect to the settlement was recorded as well.

As per report dated 26.07.2017 received from the learned Judicial Magistrate First Class, Mohali it is opined that compromise between the parties is genuine, arrived at voluntarily between the parties without any pressure, coercion or undue influence. Photocopy of the statements of the parties are appended alongwith the said report.

It is to be noted that petitioner No.3 was admitted to interim bail pursuant to order dated 01.06.2017 passed by this Court. It is informed that the remaining amount of ₹15,00,000/- to be handed over to respondent No.2 has since been deposited before the Family Court, SAS Nagar, Mohali where the petition under Section 13B HMA filed by respondent No.2 and petitioner No.3 is pending for 15.01.2018. It is agreed between the parties that petitioner No.3 and respondent No.2 shall be present before the said court on 15.01.2018 for recording of their statements at second motion. It is further agreed that a sum of ₹15,00,000/- deposited with the Family Court, SAS Nagar, Mohali should be released to respondent No.2 after she records her statement in this petition in affirmation of the settlement. In case petitioner No.3 is not available for recording of his statement on 15.01.2018, it is submitted by learned counsel for the petitioners, on instructions, that the said amount of ₹15,00,000/- be released to respondent No.2 unconditionally, if she is present on the said date before the Family Court, SAS Nagar, Mohali.

In this view of the matter, learned counsel for respondent No.2 submits that respondent No.2 has no objection whatsoever to the quashing of the abovementioned FIR against all the petitioners provided petitioner No.3 strictly adheres to the terms and conditions as above.

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.6 dated 27.03.2014 under Sections 406/498A/420/494/120B IPC registered at Police Station NRI/SAS Nagar, District SAS Nagar Mohali alongwith all consequential proceedings are, hereby, quashed.

In the event of petitioner No.3 and respondent No.2 appearing on 15.01.2018 for recording of their statements in the petition under Section 13B HMA, the amount of ₹15,00,000/- be released to respondent No.2 after recording of statements. In case petitioner No.3 does not appear on the said date and respondent No.2 is present for recording her statement in terms of the settlement,

the sum of ₹15,00,000/- be released to her unconditionally. It is further directed that a sum of ₹15,00,000/- deposited before the Family Court, SAS Nagar, Mohali be put in a Fixed Deposit Receipts, so as to earn maximum return, till 15.01.2018. The interest accrued shall obviously be released to respondent No.2.

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 petitioner(s) or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

August 2 , 2017.
'om'

(LISA GILL)
JUDGE

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