

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

CRM-M-24338 of 2017(O&M)

Date of Decision:17.11.2017

Hemant Kumar

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.P.S.Guliani, Advocate
for the petitioner.

Mr. Rahul Rathore, DAG, Punjab.

Ms. Seema Arora, Advocate
for respondent no.2.

LISA GILL, J(Oral).

Prayer in this petition is for quashing of FIR No.110 dated 05.11.2013, under Sections 406, 498-A IPC, registered at Police Station Women Cell, Patiala, along with all other consequential proceedings arising therefrom on the basis of compromise arrived at between the parties.

It is submitted that the above-said FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband-petitioner no.1. It is informed that petition under Section 13-B of the Hindu Marriage Act, 1955 is listed for recording of the statements of the parties at second motion on 20.11.2017. The balance of the entire settled amount shall be received by respondent no.2 on the said date. Terms and conditions of the settlement between

the parties are reflected in the statements of the parties recorded at first motion in the petition under Section 13-B of the Hindu Marriage Act, 1955 (Annexures P-2 and P-3).

This Court on 29.08.2017 directed the parties to appear before the learned trial court for recording of 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 the petitioner is absconding/proclaimed offender and whether any other case is pending against him. Information was sought as to whether all affected persons are a party to the settlement.

Pursuant to order dated 29.08.2017, the parties appeared before the learned Judicial Magistrate Ist Class, Patiala, and their statements were recorded on 07.09.2017. Respondent No.2 stated that the matter has been amicably resolved by her with the accused-petitioner out of her own free will, without any fear, pressure or coercion and she no longer wishes to continue with the proceedings emanating from the above said FIR. Respondent no.2. further stated that she has no objection in case the above said FIR against the accused-petitioner is quashed. Statement of the petitioner in respect to the compromise was recorded as well.

As per report dated 11.09.2017, received from the learned Judicial Magistrate Ist Class, Patiala, it is opined that the settlement between the parties is genuine, voluntary, arrived at out of

the free will of the parties, without any coercion or undue influence.

Petitioner is not reported to be a proclaimed offender.

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 above-mentioned FIR against the petitioner subject to strict adherence to the terms and conditions of the settlement by the petitioner.

Learned counsel for the State, on instructions from ASI Gurjit Singh, has not raised any serious 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 above-said 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.110 dated 05.11.2013, under Sections 406, 498-A IPC, registered at Police Station Women Cell, Patiala, 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 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.

17.11.2017
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.