

CRM-M No.25710 of 2017

Date of decision: November 28, 2017

Vishal and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Munish K. Garg, Advocate
for the petitioners.

Mr. Rahul Rathore, DAG, Punjab
for respondent No.1-State.

Mr. Yogesh Gupta, Advocate
for respondent No.2.

LISA GILL, J.(ORAL)

Prayer is for quashing of FIR No.101 dated 12.06.2014, under Sections 498-A, 406, 506, 323, 34 IPC, Police Station Cantt. Ferozepur, District Ferozepur alongwith consequential proceedings arising therefrom on the basis of 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, the matter is amicably resolved between the parties. Respondent No.2 and her husband have decided to part ways.

Petition under Section 13-B of the Hindu Marriage Act has been filed by respondent No.2 and petitioner No.1. Their statements at first motion in the said petition have been recorded. It is informed that a sum of Rs.90,000/- was handed over to respondent No.2 at the time of recording of their statements at first motion in the petition under Section 13-B of Hindu

Marriage Act. Another sum of Rs.90,000/- was handed over to her at the time of recording her statement in the present case on 11th August, 2017. The balance amount of Rs.90,000/-, it is submitted, shall be remitted by the petitioners to respondent No.2 at the time of recording of their statements at second motion in the petition under Section 13-B of the Hindu Marriage Act. Learned counsel for the petitioners submits that petitioners undertake to abide by the terms and conditions of the settlement.

This Court on 19.07.2017 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 violation 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 19th July, 2017, parties appeared before the Judicial Magistrate First Class, Ferozepur, and their statements were recorded on 11th August, 2017. Respondent No.2 stated that the matter has been compromised by her out of her own sweet will, without any undue influence and pressure of any kind. It is stated that petition under Section 13-B of the Hindu Marriage Act has been filed by her and her husband. She has admitted the receipt of Rs.1,80,000/- in two installments of Rs.90,000/- each. It is stated that a total sum of Rs.2,70,000/- has been agreed to be received by her towards all her claims past, present or future in respect to permanent alimony, maintenance etc. Respondent No.2 further stated that

she has no objection to the quashing of the aforesaid FIR qua the petitioners.

As per report dated 23rd August, 2017 received from the learned Judicial Magistrate Ist Class, Ferozepur, it is opined that the settlement between the parties is genuine and valid arrived at between the parties out of their own free will without any inducement or threat. The statements of the parties are appended along with 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 above-mentioned FIR against all the petitioners subject to strict adherence to the terms and conditions of settlement by them.

Learned counsel for the State, on instructions from HC Rajinder Kumar, submits 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 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.101 dated 12.06.2014, under Sections 498-A, 406, 506, 323, 34 IPC, Police Station Cantt. Ferozepur, District Ferozepur alongwith 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.

November 28, 2017

m. sharma

**(LISA GILL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No