

Sr.No.254

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

CRM-M No.28456 of 2016

Date of decision: 01.03.2017

Gurdeep Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. R.S.Chauhan, Advocate
for the petitioner.

Mr. K.D.Sachdeva, Addl.AG,Punjab.

LISA GILL, J.(Oral)

Matrimonial discord between the petitioner and respondent No.2 resulted in the lodging of FIR No. 4 dated 20.01.2011 under Section 498-A, 406 of the Indian Penal Code (for short 'IPC') at Police Station Ghardiwal, Tehsil Dasuya, District Hoshiarpur.

The above said FIR was registered on the basis of an application submitted by respondent No.2. Out of all the persons named in the FIR, proceedings were initiated only against the petitioner. The petitioner was convicted for the offence punishable under Section 406 and 498-A IPC by the learned Judicial Magistrate Ist Class, Dasuya vide judgment dated 30.10.2015. Vide order of even date, he was sentenced to undergo rigorous imprisonment for two years besides pay a fine of Rs. 1000/- for the offence punishable under Section 498-A IPC and in default thereof undergo rigorous imprisonment for 1 month.

An appeal was preferred by the petitioner which is pending before the learned Additional Sessions Judge, Hoshiarpur. In the

interregnum, settlement was arrived at between the parties and they decided to part ways. A petition under Section 13-B of the Hindu Marriage Act, 1955(Annexure P-4) was filed by the petitioner and respondent No. 2 on 1.04.2016. This petition has been allowed on 19.10.2016.

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No. 4 dated 20.01.2011 registered under Section 498-A, 406 of the Indian Penal Code (for short 'IPC') at Police Station Ghardiwal, Tehsil Dasuya, District Hoshiarpur and all other consequential proceedings arising therefrom including the judgment of conviction on the basis of an amicable settlement arrived at between the parties.

Learned counsel for the petitioner relies upon a Division Bench judgment of this Court passed in the case of *Sube Singh vs. State of Haryana and another 2013(4)R.C.R.(Criminal) 102* to submit that there is no impediment for an FIR to be quashed at the appellate stage to secure the ends of justice. Furthermore, the present is a dispute arising out of matrimonial discord, therefore, an effort should be made to maintain harmony between the parties and to give a quietus to the dispute.

Pursuant to order dated 16.01.2017 passed by this Court, the parties appeared before the learned Additional District & Sessions Judge, Hoshiarpur on 2.02.2017 and their statements were recorded. Smt. Paramjit Kaur-respondent No.2 has stated that the above said FIR was registered against the petitioner and his mother Smt. Samitri Devi due to matrimonial discord. Samitri Devi was found innocent during investigation. She was placed in Column No. 2 at the time of presentation of challan. An

application moved by respondent No. 2 under Section 319 Cr.P.C for summoning Samitri Devi was dismissed. After the petitioner has been convicted and during the pendency of the appeal, the matter has been amicably resolved with the intervention of respectables. It is stated by respondent No. 2 that on a petition filed under Section 13-B of the Hindu Marriage Act, 1955 their marriage has been dissolved by a decree of divorce on 19.10.2016. Custody of their minor son would remain with her. It is stated that she has received a sum of ₹ 5,00,000/- as full and final settlement in respect of her maintenance past, present and future. Respondent No. 2 has further stated that she has no objection what so ever, in case the FIR is quashed against the petitioner. She has categorically stated that settlement between the parties has been arrived at out of her own free will and volition, without any coercion, undue influence or fear.

As per report dated 14.2.2017 of the learned Additional District & Sessions Judge, Hoshiarpur it is noted that the compromise effected between the parties is genuine, entered into out of their own free will and consent, without any coercion, undue influence or fear. Statements of the parties have been appended alongwith the report. The appeal preferred by the petitioner against his conviction is pending before the said court. Shri Vinod Kumar, Advocate had appeared on behalf of respondent No. 2 on 16.01.2017. He had affirmed and verified the factum of settlement arrived at between the parties.

Learned counsel for the State, on instructions from ASI Tarsem Singh submits that as the dispute arose from matrimonial discord, the State has no objection to the quashing of this FIR on the basis of the

settlement arrived at between the parties as well as the consequent setting aside of judgment and order dated 30.10.2015.

A division bench of this Court in Sube Singh's case(supra) has held as under:-

“The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case.”

It is held in the abovesaid case that there is no embargo against invoking the power under Section 482 Cr.P.C after the conviction of an accused by the trial court and during the pendency of appeal against such conviction.

In the instant case, FIR No. 4 dated 20.01.2011 is a fall out of a matrimonial dispute between the parties. The matter has been amicably resolved between the parties who wish to give a quietus to the entire issue and carry on with their lives. Report dated 14.02.2017 submitted by the learned Addl. District & Sessions Judge, Hoshiarpur establishes that the compromise between the parties is genuine, bonafide and arrived at out of their own free will. Therefore, non-acceptance of this compromise would lead to denial of complete justice to parties.

Keeping in view of the facts and circumstances of this case, this

petition is allowed. The judgment and order dated 30.10.2015 passed by the learned JMIC Dasuya is set aside on the basis of the settlement arrived at between the parties. FIR No. 4 dated 20.01.2011 registered under Section 498-A, 406 of the Indian Penal Code (for short 'IPC') at Police Station Ghardiwal, Tehsil Dasuya, District Hoshiarpur, alongwith all consequential proceedings are hereby quashed. Resultantly, the appeal preferred by the petitioners is rendered infructuous and shall be so declared by the learned Ist Appellate Court at Hoshiarpur.

1st March, 2017
Shivani Kaushik

[LISA GILL]
JUDGE

Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*