

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

Criminal Misc. No.M- 28457 of 2016 (O&M)

Date of decision : November 10, 2017

Rajwinder Singh and another

.....Petitioners

Versus

State of and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gulzar Mohd. Advocate
for the petitioners.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Mandeep Singh Sachdev, Advocate
for respondent No.2.

LISA GILL, J.

This petition has been filed by the brother-in-law and mother-in-law of respondent No. 3 for quashing of FIR No. 18 dated 26.03.2012 under Sections 406, 498A IPC registered at Police Station Women Cell, Jalandhar city all other consequential proceedings arising therefrom on the basis of a compromise arrived at between the parties.

The abovesaid FIR was registered at the instance of respondent No.2 due to matrimonial discord between his daughter – respondent No. 3 and her husband – Kamaldeep Singh. With the intervention of respectables and relatives, a compromise has been arrived at between the parties, the terms of which were reduced into writing on 22.12.2015 (Annexure P2).

The present petition has been filed on the basis of this compromise.

It is submitted that husband of respondent No. 3 i.e. Kamaldeep

Singh is a proclaimed offender. He is unable to come from Australia though the compromise has been effected with him as well. Kamaldeep Singh, it is noted, is not a party to this petition.

Learned counsel for the petitioners relies on a decision of this Court in **Parambir Singh Gill Vs. Malkiat Kaur 2010 (1) RCR (Criminal) 256** to submit that an FIR can be quashed qua some of the accused persons on the basis of a settlement arrived at between the parties. Ex-parte divorce was granted in favour of respondent No. 3 on 15.04.2014. The accused – Kamaldeep Singh had agreed not to challenge this decree. It is submitted that in terms of settlement between the parties, the entire settled amount was handed over to Mr. Mandeep Singh Sachdev, Advocate for respondents No. 2 and 3. It is informed that the said amount was handed over to the complainant by Mr. Mandeep Singh Sachdev, Advocate, at the time of demonitisation of currency. A photocopy of the receipt is taken on record, subject to just exceptions. Though it is mentioned in the said receipt that the amount would be deposited again with the counsel after changing the currency but it is informed that the amount is with the complainant and his daughter. In this situation, it is submitted that there is no impediment in quashing of aforementioned FIR.

This Court on 05.05.2017 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 05.05.2017, the parties appeared before the learned Judicial Magistrate First Class, Jalandhar and their statements were recorded on 22.05.2017. Respondent No. 3 stated that the matter has been compromised with all the accused persons. Ex-parte divorce was granted to her on 15.04.2014. The compromise, it is stated, was arrived at out of her own free will, without any kind of pressure, threat or undue influence. Respondent No. 3 stated that she has no objection to the quashing of the abovesaid FIR qua the accused persons. Statements of the petitioners in respect to the compromise were also recorded.

As per report dated 15.06.2017 received from the learned Civil Judge (Junior Division)-cum-Judicial Magistrate First Class, Jalandhar, it is opined that the compromise between the parties is genuine, arrived at between the parties without any kind of force and pressure. None of the petitioners is reported to be a proclaimed offender though Kamaldeep Singh – husband of respondent No. 2, is a proclaimed offender. He is not a party to this petition. Statements of the parties are appended alongwith the said report.

Learned counsel for respondents No.2 and 3 reaffirms and verifies the factum of settlement between the parties. It is reiterated that respondents No.2 and 3 have no objection to the quashing of the abovementioned FIR against the accused persons.

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 qua the present petitioners 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. 18 dated 26.03.2012 under Sections 406, 498A IPC registered at Police Station Women Cell, Jalandhar city alongwith all consequential proceedings qua the present petitioners are, hereby, quashed.

(Lisa Gill)
Judge

November 10, 2017
rts

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No