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

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**Criminal Misc. No.M-2964 of 2016
Date of Decision: March 18, 2017**

Rajinder Khanna and others

....Petitioners

versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Anupam Bhardwaj, Advocate for the petitioners.

Mr. Rajpreet S. Sidhu, AAG, Punjab.

None for respondent No.2.

LISA GILL, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.61 dated 21.02.2014 (**Annexure P-1**) registered under Sections 406, 498A of the Indian Penal Code (for short 'IPC') at Police Station Civil Lines, District Amritsar and all other consequential proceedings arising therefrom including order dated 23.02.2015 (**Annexure P-4**) declaring petitioner No.3 to be proclaimed offender on the basis of an amicable settlement arrived at between the parties.

The aforesaid FIR was registered at the behest of respondent No.2, namely, Shivani. It is a result of matrimonial discord between petitioner No.3 and respondent No.2.

Learned counsel for the petitioners submits that the impugned order dated 23.02.2015 is in violation of the settled provisions of law. It is stated that petitioner No.3 was not in India at the time of registration of the aforesaid FIR on 21.02.2014. Proper procedure was not followed before passing of the impugned order dated 23.02.2015 declaring petitioner No.3 to be proclaimed offender. This is obvious from the fact that even on 23.02.2015, petitioner No.3 was neither in India nor he had visited India from the time of registration of the FIR till the passing of the said order. The said factual position is not disputed by learned counsel for the State or respondent No.2. It is further not disputed that the petition under Section 13-B of the Hindu Marriage Act, 1995 filed by the parties has been allowed on 13.02.2017. The parties have decided to live separately in peace and harmony and put to an end to the acrimony between them.

In view of the said fact as well as the settlement arrived at between the parties, this Court on 23.02.2017 directed the parties to appear before the learned Illaqa/Area Magistrate on 01.03.2017 for getting their statements recorded in respect to the above-mentioned compromise. Liberty was afforded to petitioner No.3 to record his statement through his father and Power of Attorney Holder. Learned Illaqa/Area 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 Illaqa/Area Magistrate was directed

to intimate whether the petitioners are proclaimed offender and whether any other case is pending against them. Information was sought as to whether all affected persons are party to the settlement.

Pursuant to order dated 23.02.2017, the parties appeared before the learned Chief Judicial Magistrate, Amritsar and their statements were recorded on 15.03.2017. Respondent No.2-Shivani, the complainant in this case has stated that the matter between the parties has been amicably resolved with the accused-petitioners. The settlement has been arrived at out of her own free will and without any kind of pressure. Furthermore, respondent No. 2 has stated that she has no objection if the above mentioned FIR and all consequential proceedings therefrom including order dated 23.02.2015 are quashed qua all the petitioners. Statements of petitioners No.1, 2 as well as petitioner No.3 through his power of attorney holder-Mr. Rajinder Khanna(petitioner No.1) were recorded in this respect.

As per report dated 15.03.2017 submitted by the learned Chief Judicial Magistrate, Amritsar, it is opined that the compromise between the parties is genuine and bona fide arrived at out of their free will and without any kind of coercion or undue influence. It is noted that except petitioner No.3, none of the petitioners are declared proclaimed offender. It is to be noted that respondent No.2 had affirmed her stand before the learned Chief Judicial Magistrate, Amritsar as taken in the proceedings under Section 13-B of the Hindu Marriage Act. Certified copy of order dated 13.02.2017

alongwith the statement of the parties in the said proceedings are on record of this petition. It is noted that statement of petitioner No.3 was recorded before the Chief Judicial Magistrate, Amritsar through his power of attorney holder-Mr. Rajender Khanna (i.e. Petitioner No.1 and father of petitioner No.3).

Learned counsel for the petitioners reiterates that petitioner No.3 shall be bound in all aspects by all the acts done and the statements made on his behalf by his father (Power of attorney holder). He shall abide by all the terms and conditions of the settlement arrived at between the parties.

Learned counsel for the State, on instructions from Head Constable Jagbir Singh, affirms and verifies the factual position in this case.

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”.

Keeping in view the facts and circumstance of this case, it would be in the interest of justice to quash the abovesaid FIR as no useful purpose would be served by continuing the present

proceedings. It will only lead to wastage of precious time of the court and would be an exercise in futility.

This petition is, thus, allowed and FIR No.61 dated 21.02.2014 (**Annexure P-1**) registered under Sections 406, 498A of the Indian Penal Code (for short 'IPC') at Police Station Civil Lines, District Amritsar and all other consequential proceedings arising therefrom including order dated 23.02.2015 (**Annexure P-4**) are hereby quashed.

March 18, 2017
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(LISA GILL)
JUDGE

<i>Whether speaking/reasoned?</i>	Yes
<i>Whether reportable?</i>	Yes/No