

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

Criminal Misc. No. M- 30100 of 2017(O&M)

Date of Decision: December 12 , 2017.

Jotinder Singh

..... PETITIONER(s)

Versus

Union Territory, Chandigarh and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Jasdev Singh Mehndiratta, Advocate
for the petitioner.

Mr. Rajiv Sharma, APP, U.T.

Mr. H.S.Randhawa, Advocate
for the complainant/respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.09 dated 05.01.2016 under Sections 406/498A IPC registered at Police Station Women, Chandigarh and 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 with her husband i.e., the petitioner. It is submitted that the matter has been amicably resolved between the parties, the terms of which were reduced into writing on 24.05.2017 (Annexure P2). The parties decided to part ways.

It is informed that petition under Section 13B of the Hindu Marriage

Act, 1955 (for short, the 'HMA') has been filed by the parties. Their statements at first motion have been recorded. ₹15,00,000/- out of the total settled amount of ₹40,00,000/- has been received by respondent No.2. Rest of the amount i.e., ₹25,00,000/- stands deposited with the Registry of this Court in the shape of FDRs in favour of the minor child of the parties, namely, Arzoyi Singh as per the terms of the settlement. Learned counsel for the petitioner submits that the petitioner has no objection in case the said amount is released to respondent No.2 after recording of statements of the parties at second motion in proceedings under Section 13B of the HMA in terms of clause (ii) of compromise dated 24.05.2017 (Annexure P2).

This Court on 20.09.2017 directed the parties to appear before learned trial court for recording their statements in respect to the above-mentioned compromise. Liberty was afforded to respondent No.2 to record her statement through her power of attorney holder i.e., her father Col. Gurbinder Singh. 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 20.09.2017, the parties appeared before the learned Judicial Magistrate First Class, Chandigarh and their statements were recorded on 25.10.2017. Statement of respondent No.2 was recorded through

her duly authorized power of attorney holder Col. Gurbinder Singh (her father). It is stated that the matter was amicably resolved by his daughter, respondent No.2 with the petitioner on 24.05.2017 (Ex.C1) out of her own free will without any pressure, coercion, threat or promise from any corner. It is further stated that respondent No.2 has no objection in case the abovesaid FIR against the accused petitioner is quashed. Statement of the petitioner in respect to the settlement was recorded as well.

As per report dated 07.11.2017 received from the learned Judicial Magistrate First Class, Chandigarh, it is opined that the compromise between the parties is genuine, arrived at out of the free will of the parties without any pressure, coercion or undue pressure from any corner. The petitioner, who is the sole accused in this case, is not reported to be a proclaimed offender. Statements of the parties are appended alongwith the said report. Pendency of proceedings under Section 13B of the HMA is specifically mentioned in the said report.

Learned counsel for respondent No.2 reaffirms and verifies the factual position as above. It is reiterated that in view of the settlement arrived at between the parties, respondent No.2 has no objection to the quashing of the abovementioned FIR against the petitioner.

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 the FIR in question as well as all consequential proceedings 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 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.09 dated 05.01.2016 under Sections 406/498A IPC registered at Police Station Women, Chandigarh alongwith all consequential proceedings are, hereby, quashed.

It is further directed that sum of ₹25,00,000/- deposited with the Registry of this Court in the form of FDRs in favour of the minor Arzoyi Singh be released to respondent No.2 or her authorized power of attorney holder, Col. Gurbinder Singh after recording of statements of the parties at second motion in proceedings under Section 13B of the HMA and grant of decree of divorce by mutual consent. The said FDRs shall be released on furnishing of copy of the said decree of divorce before the Registry.

(**LISA GILL**)
JUDGE

December 12 , 2017.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No