

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

CRM-M-33084 of 2016 (O&M)

Date of Decision: 17.11.2017

Ashok and others

..... Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Prashant Sethi, Advocate
for the petitioners.

Mr. Anmol Malik, AAG, Haryana.

Mr. Shashikant Gupta, Advocate
for Mr. Ravi Gakhar, Advocate
for respondent no.2.

LISA GILL, J(Oral).

Prayer in this petition is for quashing of FIR No.309 dated 10.09.2011, under Sections 498-A, 406, 323, 506, 34 IPC, registered at Police Station Sohna, District Gurugram, along with all other consequential proceedings arising therefrom on the basis of compromise/settlement dated 16.10.2015 (Annexure P-2) arrived at between the parties before the Mediation Centre, Sohna.

It is submitted that the above-said FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband-Bijender, *qua* whom this FIR already stands quashed vide order dated 27.04.2016 in CRM-M-41398 of 2015 (Annexure P-4). It is submitted that an *ex parte* divorce dated 11.01.2013 (Annexure P-6) in favour of the complainant's husband has been accepted by

respondent no.2. She has agreed not to challenge the said decree. Respondent no.2 and her husband are living separately after the said decree of divorce. Terms and conditions of the settlement have been reduced into writing on 16.10.2015 (Annexure P-2).

This Court on 23.02.2017 directed the parties to appear before the learned trial court for recording of 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 23.02.2017, the parties appeared before the learned Sub-Divisional Judicial Magistrate, Sohna, Gurugram and their statements were recorded on 03.03.2017. Respondent No.2 stated that the matter has been amicably resolved by her with all the accused-petitioners and she no longer wishes to continue with the proceedings emanating from the above said FIR. She categorically stated that she has no objection in case the above said FIR against all the accused-petitioners is quashed. Joint statements of the parties in respect to the compromise were recorded.

As per report dated 03.05.2017, received from the learned Sub- Divisional Judicial Magistrate, Sohna, Gurugram, it is opined that the settlement between the parties is genuine, voluntary,

arrived at out of the free will of the parties, without any coercion or undue influence. It is noted that out of the eight accused in the said FIR, one of them namely Kamla @ Kamlesh has since passed away on 08.09.2014. Petitioners are not reported to be proclaimed offenders.

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 the settlement by the petitioners.

Learned counsel for the State, on instructions from ASI Rajesh Kumar, has not raised any serious 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.309 dated 10.09.2011, under Sections 498-A, 406, 323, 506, 34 IPC, registered at Police Station Sohna, District Gurugram, along with all consequential proceedings are, hereby, quashed.

17.11.2017

s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.