

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

**CRM No. M-33207 of 2016
Date of decision: 16.03.2017**

Ashish Tyagi

..... Petitioner.

Versus

State of Punjab and another

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Jasdeep Singh, Advocate, for the petitioner.

Mr. Arshdeep S. Kler, DAG, 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. 204 dated 10.11.2015 (**Annexure P-1**) registered under Sections 498-A and 406 of the Indian Penal Code (for short 'IPC') (Section 406 IPC added later) at Police Station Phase 1, SAS Nagar, Mohali and all other consequential proceedings arising therefrom on the basis of an amicable settlement arrived at between the parties.

The above said FIR was registered at the behest of respondent No. 2-Smt. Vishakha Tyagi. The dispute arose between the parties because of matrimonial discord between petitioner and respondent.

With the intervention of respectables, elders and relatives, the matter has been amicably resolved between the parties. Petitioner and respondent No. 2 have decided to part ways. It is submitted that a petition under Section 13- B of the Hindu Marriage Act, 1955 filed by the petitioner and respondent No.2 has since been allowed on 23.02.2017.

This Court on 22.02.2017 directed the parties to appear before the learned Illaqa/ Area Magistrate on 23.02.2017 for recording their statements in respect to the above-mentioned compromise. 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 petitioner is a proclaimed offender and whether any other case is pending against him. Information was sought as to whether all affected persons are party to the settlement.

Pursuant to order dated 22.02.2017, the parties appeared before the learned Chief Judicial Magistrate, Mohali and their statements were recorded on 23.02.2017. Respondent No.2-Smt. Vishakha Tyagi has stated that an amicable settlement has been arrived at between the parties. The same is voluntary, without any kind of threat, pressure or coercion. She has stated that the petition under Section 13-B of the Hindu Marriage Act has been allowed on 23.02.2017. Therefore, she has no objection to the quashing of the aforementioned FIR against her husband i.e. the petitioner. Statement of the petitioner was recorded as well.

As per report dated 04.03.2017 submitted by the learned Chief Judicial Magistrate, Mohali, it is mentioned that the compromise arrived at between the parties is genuine, voluntarily, without any coercion or undue influence. The petitioner is not a proclaimed offender.

Respondent No. 2- Smt. Vishakha Tyagi, duly identified by ASI Jaspal Singh, Police Station Phase I, SAS Nagar, Mohali, had appeared in person before this Court on 22.02.2017. She had affirmed the factum of settlement between the parties. It was stated by her that on receipt of the

amount due towards her at the time of recording of her statement at second motion in the petition under Section 13- B of the Hindu Marriage Act, she would have no objection to the quashing of the above said FIR. As noted above, her statement has been recorded by the learned Chief Judicial Magistrate, Mohali on 23.02.2017 in this regard. It is thus apparent that the terms and conditions of the settlement have been adhered to by the parties.

Learned counsel for the State on instructions from ASI Jaspal Singh submits that the present being a matrimonial dispute, the State has no objection to the quashing of this FIR on the basis of a settlement 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.

In view of the above, 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 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. No. 204 dated 10.11.2015 registered under Sections 498-A and 406 of the IPC at Police

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Station Phase 1, SAS Nagar, Mohali alongwith all consequential proceedings arising therefrom are hereby quashed.

(LISA GILL)
JUDGE

16.03.2017

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Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*