

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

Criminal Misc. No. M- 32952 of 2017(O&M)

Date of Decision: November 21 , 2017.

Karan Kochhar and others PETITIONER(s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Bharat Bhushan Sharma, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

None for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.201 dated 08.11.2016 under Sections 406/498A IPC, registered at Police Station Sadar Khanna, District Ludhiana 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., petitioner No.1. With the intervention of respectables and relatives, a compromise was arrived at between the parties, the terms of which were reduced into writing on 18.07.2017 (Annexure P3). Petitioner No.1 and respondent No.2 decided to part ways.

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

Act, 1955 has been filed, statements of the parties at first motion have been record and now the said petition is pending in January, 2018 for recording statements of the parties at second motion.

This Court on 07.09.2017 directed the parties to appear before learned trial court/Illaqa Magistrate for recording their statements in respect to the above-mentioned compromise. Learned trial court/Illaqa 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 trial court/Illaqa Magistrate 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 07.09.2017, the parties appeared before the learned Judicial Magistrate First Class, Khanna and their statements were recorded on 27.09.2017. Respondent No.2 stated that she has compromised the matter with the accused petitioners out of her own free will, without any kind of pressure or coercion. Photocopy of the compromise was produced as Ex.C1. It is further stated that petition under Section 13B of the Hindu Marriage Act, 1955 was filed by her and her husband petitioner No.1. It is further stated that a sum of ₹40,00,000/- through cheque No.460299 dated 27.09.2017 drawn on Indian Overseas Bank was received by her at the time of recording of her statement in the present case. Respondent No.2 stated that she has no objection in case the abovesaid FIR against the accused petitioners is quashed. Statements of the petitioners in respect to the settlement were recorded as well.

As per report dated 06.10.2017 received from the learned Judicial Magistrate First Class, Khanna, satisfaction is expressed that the compromise between the parties is genuine and arrived at out of the free will of the parties, without any kind of pressure. None of the petitioners are reported to be proclaimed offenders. Statements of the parties are appended alongwith the said report.

Learned counsel for the petitioners submits that out of the total settled amount of ₹95,00,000/-, a sum of ₹35,00,000/- remains to be paid which shall be handed over to respondent No.2 at the time of recording of statements of the parties at second motion in the proceedings under Section 13B of the Hindu Marriage Act stated to be pending in January, 2018. The petitioners undertake to abide by the terms and conditions of the settlement.

Mr. Lakhwinder Singh Mann, Advocate had appeared on behalf of respondent No.2 on 07.09.2017. He had affirmed and verified the factum of settlement between the parties pursuant to which, they were directed to appear before the learned trial court/Illaq Magistrate for recording of the statements.

Learned counsel for the State, on instructions from ASI Avtar Singh, verifies the factum of settlement between the parties. He 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.201 dated 08.11.2016 under Sections 406/498A IPC, registered at Police Station Sadar Khanna, District Ludhiana alongwith all consequential proceedings are, hereby, quashed.

However, liberty is afforded to respondent No.2 to file necessary application for revival of the proceedings in the above said FIR, in case the terms and conditions of settlement between the parties are not adhered to by the petitioners or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

November 21 , 2017.
'om'

(**LISA GILL**)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No