

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

CRM-M-33968 of 2017 (O&M)

Date of Decision:20.12.2017

Ankush Joshi and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sukhjit Singh, Advocate
for the petitioners.

Mr. Sauraj Khurana, DAG, Punjab.

Ms. Arshdeep Kaur, Advocate
for respondent no.2.

LISA GILL, J(Oral).

Prayer in this petition is for quashing of FIR No.17 dated 14.07.2017, under Sections 406, 498-A IPC, registered at Police Station NRI Jalandhar, District Jalandhar, along with all other consequential proceedings arising therefrom on the basis of compromise arrived at between the parties.

It is submitted that the above-said FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband-petitioner no.1. The matter was amicably resolved. The terms and conditions of settlement/agreement were reduced into writing on 06.09.2017 (Annexure P-2). Petition under Section 13-B of the Hindu Marriage Act, 1955, it is submitted has been filed by petitioner no.1 and respondent no.2. Their statements at first motion

have been recorded. Part of the settled amount has been received by respondent no.2. Petitioner no.1 undertakes to handover the rest of the settled amount to respondent no.2 at the time of recording of their statements at second motion on 26.03.2018. Therefore, it is prayed that this petition be allowed.

This Court on 28.09.2017 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 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 28.09.2017, the parties appeared before the learned Judicial Magistrate Ist Class, Jalandhar, and their statements were recorded on 12.10.2017. Respondent No.2 stated that she has compromised the matter with all the accused-petitioners out of her own free will, without any fear, pressure or coercion. Respondent no.2 further stated that she has no objection whatsoever to the quashing of the abovesaid FIR against all the petitioners. Statements of the petitioners in respect to the settlement were recorded. Statement of petitioner no.1 through his general power of attorney i.e. petitioner no.2 has also been recorded.

As per report dated 17.11.2017, received from the

learned Judicial Magistrate Ist Class, Jalandhar, satisfaction is expressed that the compromise between the parties is genuine, arrived at out of the free will of the parties, without any pressure or undue influence. None of the petitioners is reported to be a proclaimed offender.

Learned counsel for respondent No.2 affirms 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 the petitioners in view of the settlement between the parties.

Learned counsel for the State 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.17 dated 14.07.2017, under Sections 406, 498-A IPC, registered at Police Station NRI Jalandhar, District Jalandhar, along with 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 petitioner(s) or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

20.12.2017
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.