

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

**Criminal Misc. No.M- 34209 of 2017 (O&M)**

Date of decision : December 02, 2017

Ashwani Kumar and others

.....Petitioners

Versus

State of Punjab and another

....Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Gulzar Mohd. Advocate  
for the petitioners.

Mr. Rahul Rathore, DAG, Punjab.

Mr. V.S. Rana, Advocate for  
Mr. Rajesh Gupta, Advocate  
for respondent No.2.

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**LISA GILL, J.**

**CRM No. 37068 of 2017**

Prayer in the application is for placing on record order dated 18.07.2017 as Annexure A-1. The same is taken on record subject to just exceptions. Filing of certified/typed copy thereof is exempted.

Application is disposed of.

**Criminal Misc. No.M- 34209 of 2017 (O&M)**

Prayer in this petition is for quashing of FIR No. 122 dated 07.10.2010 under Sections 406, 498A IPC registered at Police Station Kartarpur, District Jalandhar and all other consequential proceedings arising therefrom on the basis of a compromise dated 27.04.2017 (Annexure P-2).

CRM-No. 22496 of 2017 has been filed by petitioners No. 1 and 2 challenging order dated 26.02.2015 whereby they were declared to be proclaimed persons and CRM-No. 24646 of 2017 has been filed by

petitioner No. 3 challenging order dated 14.06.2012 whereby he was declared to be proclaimed person.

It is submitted that the said orders declaring the petitioners to be proclaimed persons are in complete violation of the provisions of law as the said petitioners are permanent residents of Phillipines. They were not in India at the relevant time and service was not effected on them. Moreover, the matter has been amicably resolved between the parties. Petition under Section 13 of the Hindu Marriage Act, 1955 filed by respondent No. 2 has been allowed on 18.07.2017. As per the settlement, petitioner No. 3 did not contest the same and he undertakes not to challenge this decree.

Learned counsel for the petitioners further submits that a sum of ₹ 20,00,000/- (₹20 lakhs) alongwith articles belonging to respondent No. 2 have been duly handed over to her. The amount of settlement is duly mentioned in compromise dated 27.04.2017.

This Court on 15.09.2017 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 15.09.2017, the parties appeared before the learned Chief Judicial Magistrate (NRI Cases), Jalandhar and their

statements were recorded on 22.09.2017. Respondent No.2 stated that the matter has been amicably resolved by her with all the three petitioners. She has given the detail of the amount as well as the jewellery returned to her. It is stated that compromise has been effected by respondent No. 2 voluntarily, without any pressure from any quarter. It is further stated that she has no objection to the quashing of the aforementioned FIR as well as consequential proceedings including the orders declaring the petitioners to be proclaimed persons. Statements of petitioners No. 1 and 2 in person and of petitioner No. 3 through his power of attorney were also recorded in respect to the settlement.

As per report dated 06.10.2017 received from the learned Chief Judicial Magistrate (NRI Cases), Jalandhar it is opined that compromise between the parties is genuine, voluntary, arrived at out of free will of the parties, without any pressure. Statements of the parties are appended alongwith the said report.

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 abovementioned FIR as well as the orders whereby the petitioners were declared to be proclaimed persons.

Learned counsel for the State, on instructions from ASI Sukhwinder Singh, submits that respondent No. 2 has recorded a statement before the police authorities on 29.11.2017 in respect to the settlement arrived at between the parties. Photocopy of the same produced in Court today is taken on record subject to just exceptions. As the abovesaid FIR arises out of a matrimonial dispute, the State has no objection to the quashing of this FIR on the basis of a settlement arrived at between the

parties as well as the orders whereby the petitioners were declared to be proclaimed persons.

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. 122 dated 07.10.2010 under Sections 406, 498A IPC registered at Police Station Kartarpur, District Jalandhar alongwith all consequential proceedings including orders dated 26.02.2015 and 14.06.2012 are, hereby, quashed.

**(Lisa Gill)**  
**Judge**

December 02, 2017  
rts

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No