

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

Criminal Misc. No. M- 35884 of 2017(O&M)

Date of Decision: November 21 , 2017.

Tarun Kundra PETITIONER(s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Kiran Kumar, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Kulbhushan Pruthi, Advocate for
Mr. Ravi Chadda, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.168 dated 18.08.2017 under Sections 406/498A IPC, registered at Police Station Maqsudan, Jalandhar Rural 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., the petitioner. With the intervention of respectables and relatives, a compromise was arrived at between the parties, the terms of which were reduced into writing on 01.09.2017 (Annexure P2). The petitioner 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 by the petitioner and respondent No.2. A part of the settled amount in terms of the compromise has been handed over to respondent No.2. The petitioner undertakes to hand over the rest of the settled amount to respondent No.2 at the time of recording of their statements at second motion in the abovesaid proceedings.

This Court on 25.09.2017 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 the accused is absconding/proclaimed offender and whether any other case is pending against him. Information was sought as to whether all affected persons are a party to the settlement.

Pursuant to order dated 25.09.2017, the parties appeared before the learned Judicial Magistrate First Class, Jalandhar and their statements were recorded on 12.10.2017. Respondent No.2 stated that she has compromised the matter with the accused petitioner out of her own free will, without any undue pressure. Copy of the compromise was produced as Ex.PA. It is further stated that petition under Section 13B of the Hindu Marriage Act, 1955 stood filed by the parties. Respondent No.2 further stated that she has no objection in case the abovesaid FIR against the accused petitioner is quashed. Statement of the petitioner in respect to the settlement was recorded as well.

As per report dated 03.11.2017 received from the learned Judicial Magistrate First Class, Jalandhar, it is opined that the compromise between the parties is genuine and voluntary, arrived at out of their free will without any pressure, duress or undue influence. The petitioner, who is the sole accused, is not reported to be a proclaimed offender. 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 against the petitioner subject to strict adherence to the terms and conditions of the settlement.

Learned counsel for the State, on instructions from ASI Gurmej Singh, 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.168 dated 18.08.2017, under Sections 406/498A IPC, registered at Police Station Maqsudan, Jalandhar Rural 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 petitioner 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