

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No. M-3706 of 2017
Date of decision: 06.04.2017

Sameer Rai @ Sameer Jain and another Petitioners.

Versus

State of Punjab and another Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

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

Mr. K.D. Sachdeva, Addl.A.G., Punjab

Mr. L.S. Bhullar, Advocate, 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. 32 dated 04.02.2016 (**Annexure P-1**) registered under Sections 323, 406, 498-A and 342 of the Indian Penal Code (for short 'IPC') at Police Station City Kharar and all other consequential proceedings arising therefrom on the basis of an amicable settlement (**Annexure P-2**) arrived at between the parties.

The above said FIR was registered at the behest of respondent No. 2-Smt. Gurpreet Kaur. The dispute arose between the parties because of matrimonial discord between petitioner No. 1 and respondent No.2.

With the intervention of respectables, elders and relatives, the matter has been amicably resolved between the parties. It is submitted that the petitioner No.1 and respondent No. 2 are now living together peacefully in their matrimonial home. The terms and conditions of the settlement are reflected in compromise deed dated 25.01.2017 (Annexure P-2).

This Court on 23.02.2017 directed the parties to appear before the learned Illaqa Magistrate/trial Court on 09.03.2017 for recording their statements in respect to the above-mentioned compromise. Learned trial

court/Illaq 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 Illaq Magistrate/trial court was directed to intimate whether the petitioners are proclaimed offenders and whether any other case is pending against them. Information was sought as to whether all affected persons are party to the settlement.

Pursuant to order dated 23.02.2017, the parties appeared before the learned Sub Divisional Judicial Magistrate, Kharar and their statements were recorded on 09.03.2017. Respondent No.2-Smt. Gurpreet Kaur has stated that she has amicably resolved the matter with the accused-petitioners. The settlement has been arrived at out of her free will and consent, without any coercion, inducement, threat or pressure. It is stated by her that she is residing at her matrimonial home at Kharar in a peaceful manner since 26.10.2016. Respondent No. 2 has stated that she has no objection to the quashing of the above said FIR qua both the petitioners. Joint statement of both the petitioners in respect to the settlement was recorded.

As per report dated 30.03.2017, submitted by the learned Sub Divisional Judicial Magistrate, Kharar, it is opined that the compromise between the parties is genuine, arrived at voluntarily, without any threat, coercion or undue influence. It is noted that the petitioners are the only accused in this case. They are not proclaimed offenders and neither are any such proceedings pending against them.

Learned counsel for the complainant/respondent No.2 affirms and verifies the factum of settlement between the parties. It is stated that

respondent No. 2 has no objection, whatsoever, to the quashing of the above mentioned FIR qua the petitioners.

Learned counsel for the State on instructions from SI Karamjit Kaur, Police Station City, Kharar 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. 32 dated 04.02.2016 registered under Sections 323, 406, 498-A and 342 of the IPC at Police Station City Kharar alongwith all consequential proceedings arising therefrom 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.

06.04.2017
PA

(LISA GILL)
JUDGE

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