

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

Crl. Misc. No. M- 38869 of 2015(O&M)

Date of Decision: March 2 , 2017.

Emmanuel Eric and others

..... PETITIONER(s)

Versus

State of Haryana and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Indu Bala, Advocate for
Mr. Aditya Jain, Advocate
for the petitioners.

Mr. Ramesh Kumar, AAG, Haryana.

Mr. Vikrant Rana, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.273 dated 21.10.2011 under Sections 323/406/498A/506 IPC registered at Police Station DLF, District Gurgaon and all other consequential proceedings arising therefrom on the basis of compromise dated 20.04.2015 (Annexure P2) arrived at between the parties.

The abovesaid FIR was registered at the behest of respondent No.2 on account of matrimonial discord between petitioner No.1 and respondent No.2. With the intervention of respectables and relatives, a compromise has been arrived at between the parties, the terms of which were reduced in writing

on 20.04.2015. The parties wish to live in peace and harmony and put an end to the acrimony between them. Petitioner No.1 and respondent No.2 have decided to part ways. Petition under Section 13B of the Hindu Marriage Act, 1955 filed by petitioner No.1 and respondent No.2 for divorce by mutual consent has since been allowed on 30.04.2016.

This Court on 19.05.2016 directed the parties to appear before learned trial court/Illaq Magistrate on 04.07.2016 for getting their statements recorded 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 trial court/Illaq Magistrate was also directed to intimate the stage of trial/proceedings and whether any of the petitioners are absconding/proclaimed offenders.

Pursuant to order dated 19.05.2016, the parties appeared before the learned Judicial Magistrate First Class, Gurgaon and their statements were recorded on 13.07.2016. Respondent No.2 – Ms. Chintan Lamba made a statement to the effect that the matter has indeed been resolved amicably. She stated that divorce has been granted by the learned District Judge, Family Court, Faridabad on 30.04.2016. Respondent No.2 stated that she has no objection to the quashing of the abovesaid FIR against all the accused persons subject to the condition that petitioner No.1 clears the entire loan amount qua H.No.U-18/7, Ground Floor, Pink Town House, DLF Ph-III, Gurgaon.

Statements of the petitioners in respect to the settlement were recorded. Petitioner No.1 stated that he has already complied with the terms of

the settlement.

As per report dated 13.07.2016 received from the learned Judicial Magistrate First Class, Gurgaon the parties have doubtlessly stated that the settlement has been arrived at out of their own free will and volition but respondent No.2 has stated that she has no objection to the quashing of the abovesaid FIR subject to the condition as mentioned above. Accordingly, the report alongwith the statements of the parties has been forwarded.

The petitioners had sought some time to make good the payment as mentioned by respondent No.2. Learned counsel appearing for the petitioners submits that the entire loan amount has since been repaid. A photocopy of communication dated 25.01.2017 from the Chief Manager, ICICI Bank, Gurgaon has been produced in Court today with a copy thereof to learned counsel for respondent No.2. Same is taken on record subject to just exceptions.

Learned counsel for respondent No.2 reaffirms and verifies that the entire loan amount has been repaid and nothing remains due from the petitioners towards respondent No.2. The terms and conditions of the agreement between the parties have now been fully complied with by the petitioners and respondent No.2 has no objection whatsoever to the quashing of the abovementioned FIR.

Learned counsel for the State on instructions from ASI Satish Kumar submits that 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.

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 continuing the present proceedings. It will only lead to wastage of precious time of the court and would be an exercise in the futility.

This petition is, thus, allowed and FIR No.273 dated 21.10.2011 under Sections 323/406/498A/506 IPC registered at Police Station DLF, District Gurgaon alongwith all consequential proceedings are, hereby, quashed qua the petitioners.

March 2, 2017.
'om'

(**LISA GILL**)
JUDGE

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