

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

**CRM No. M-41931 of 2016
Date of decision: 31.05.2017**

Hitesh Kumar and others

..... Petitioners.

Versus

State of Haryana and another

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gulshan Nandwani, Advocate, for the petitioners.

Mr. Sanjay K. Saini, AAG, Haryana.

Mr. Ketan Antil, Advocate, for
Mr. Jyotiraditya Singh, 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. 31 dated 24.04.2012 (**Annexure P-1**) registered under Sections 498-A, 406, 506, 313, 34 of the Indian Penal Code (for short 'IPC') at Police Station Rohadai, District Rewari along with consequential proceedings arising therefrom. The petitioners further pray for setting aside judgment of conviction dated 25.01.2016 and order of sentence dated 27.01.2016, passed by the learned Judicial Magistrate 1st Class, Kosli, on the basis of an amicable settlement (**Annexure P-4**) arrived at between the parties.

The above said FIR was registered at the behest of respondent No. 2-Smt. Sanjita. The dispute arose between the parties because of matrimonial discord between petitioner No. 1- Hitesh Kumar and respondent No.2- Sanjita. Vide judgment and order dated 25.01.2016 and 27.01.2016, passed by the learned Judicial Magistrate 1st Class, Kosli, the

petitioners have been convicted for the offence punishable under Section 498-A read with Section 34 of the IPC. They are sentenced to undergo rigorous imprisonment for a period of one year; besides pay a fine of ₹ 1,000/- each and in default thereof undergo simple imprisonment for a period of twenty days.

During the pendency of the appeal preferred by the petitioners before the learned Additional Sessions Judge, Rewari challenging judgment of conviction dated 25.01.2016 and order of sentence dated 27.01.2016, a settlement was arrived at between the parties. Copy of the settlement dated 27.10.2016 is attached as Annexure P-4 with this petition. Petitioner No. 1 and respondent No. 2 have decided to part ways. Petition under Section 13- B of the Hindu Marriage Act, 1955 filed by petitioner No.1 and respondent No. 2 has since been allowed on 07.02.2017. It is submitted that respondent No. 2 no longer wishes to pursue the matter. The parties wish to carry on with their respective lives in peace and harmony after putting an end to the acrimony amongst them. Thus, it would be in the interest of justice to quash the aforementioned FIR and set aside judgment of conviction dated 25.01.2016 and order of sentence dated 27.01.2016

It is submitted that as the dispute arose out of matrimonial discord between petitioner No. 1 and respondent No. 2, conviction of the petitioners under Section 498-A, 34 of the IPC is not an impediment to the quashing of this FIR. He relies on a Division Bench judgment of this Court in the case of ***Sube Singh and another Vs. State of Haryana and another 2013 (4) RCR(Criminal) 102.***

Learned counsel for respondent No. 2 reaffirms and verifies the factum of settlement arrived at between the parties.

This Court on 01.03.2017 directed the parties to appear before the learned first appellate Court on 23.03.2017 for recording their statements in respect to the above-mentioned compromise. Learned first appellate 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.

Pursuant to order dated 01.03.2017, the parties appeared before the learned Additional Sessions Judge, Rewari and their statements were recorded on 23.03.2017. Respondent No.2-Smt. Sanjita stated that the matter has been amicably resolved with all the petitioners. The settlement has been arrived at out of her own free will, without any kind of pressure, coercion or threat. It is further stated by her that petition under Section 13-B of the Hindu Marriage Act has since been allowed. Respondent No. 2 categorically stated that she does not wish to proceed any further with the matter and has no objection to the quashing of the above said FIR as well setting aside of judgment of conviction dated 25.01.2016 and order of sentence dated 27.01.2016. Joint statement of all the petitioners in respect to the settlement was recorded.

As per report dated 24.03.2017, submitted by the learned Additional Sessions Judge, Rewari, it is opined that the statements have been suffered voluntarily by the parties. The compromise between the parties is genuine. The petitioners are not involved in any other criminal case as per information available.

Learned counsel for the complainant/respondent No.2 submits that respondent No. 2 has no objection, whatsoever to the quashing of the aforementioned FIR and consequent setting aside of the judgment of

conviction dated 25.01.2016 and order of sentence dated 27.01.2016, passed by the learned Judicial Magistrate 1st Class, Kosli.

Learned counsel for the State on instructions from ASI Krishan Kumar, Police Station Rohadai, District Rewari submits that the present being a matrimonial dispute, the State has no objection to the quashing of this FIR and setting aside of conviction of the petitioners 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.

A division bench of this Court in Sube Singh's case (supra) has held as under:-

“The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and

invoking of such power is fully justified on facts and circumstances of the case.”

It is held in the abovesaid case that there is no embargo against invoking the power under Section 482 Cr.P.C after the conviction of an accused by the trial court and during the pendency of appeal against such conviction.

In the instant case, FIR No. 31 dated 24.04.2012 is a fall out of a matrimonial dispute between the parties. The matter has been amicably resolved between the parties who wish to give a quietus to the entire issue and carry on with their lives. Report dated 24.03.2017 submitted by the learned Addl. District & Sessions Judge, Rewari establishes that the compromise between the parties is genuine, bonafide and arrived at out of their own free will. Therefore, non-acceptance of this compromise would lead to denial of complete justice to parties.

Keeping in view of the facts and circumstances of this case, this petition is allowed. The judgment of conviction dated 25.01.2016 and order of sentence dated 27.01.2016 passed by the learned Judicial Magistrate 1st Class, Kosli are set aside on the basis of the settlement arrived at between the parties. FIR No. 31 dated 24.04.2012 registered under Sections 498-A, 406, 506, 313, 34 of the IPC at Police Station Rohadai, District Rewari, alongwith all consequential proceedings are hereby quashed. Resultantly, the appeal preferred by the petitioners is rendered infructuous and shall be so declared by the learned Ist Appellate Court at Rewari.

(LISA GILL)
JUDGE

31.05.2017

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