

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

Criminal Misc. M- No. 42356 of 2016 (O&M)

Date of decision : July 17, 2017

Jatinder Kumar

.....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sahil Puri, Advocate
for the petitioner.

Mr. Karambir Singh, AAG, Punjab.

Mr. Akash Deep Sethi, Advocate
for respondent No. 2.

LISA GILL, J.

CRM No. 21773 of 2017

For the reasons mentioned in the application and arguments addressed as well as the stand of learned counsel for the respondents that there is no objection to the impleadment of the said parties, Krishan Gopal son of Somnath and Kamlesh Rani wife of Krishan Gopal residents of village Fattudhinga, Tehsil and District Kapurthala are impleaded as petitioners No. 2 and 3. Amended memo of parties is taken on record.

Application is disposed of.

Criminal Misc. M- No. 42356 of 2016

Prayer in this petition is for quashing of FIR No. 11 dated 05.02.2013 registered under Sections 498A, 406 of the Indian Penal Code

('IPC' – for short) at Police Station Subhanpur, District Kapurthala 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 behest of respondent No.2 due to matrimonial discord with her husband i.e. the petitioner. With the intervention of respectables and relatives, a compromise has been arrived at between the parties. The parties wish to live in peace and harmony and put an end to the acrimony between them. The present petition has been filed on the basis of this compromise.

This Court on 28.11.2016 directed the parties to appear before learned trial court/Illaq Magistrate 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 and to intimate with regard to pendency of any proclaimed offender proceedings against the party.

Pursuant to order dated 28.11.2016, the parties appeared before the learned Judicial Magistrate First Class, Kapurthala and their statements were recorded on 07.01.2017. Respondent No. 2 stated that the matter has been amicably resolved with all the accused petitioners. The settlement, it is stated, has been arrived at voluntarily, out of her own free will, without any coercion or undue influence. It is further stated that she has received a sum of Rs. 1,75,000/- in cash and balance of Rs. 1,75,000/- by way of demand draft dated 02.01.2016. Respondent No. 2 further stated that she has no objection to the quashing of the abovesaid FIR qua all the accused petitioners. Statements of all the petitioners in respect to the settlement were also recorded.

As per report dated 11.01.2017 received from the learned Judicial Magistrate First Class, Kapurthala, it is opined that the settlement between the parties is genuine, and voluntary, arrived at without any coercion, undue any influence and threat. It is further informed that the petition under Section 13-B of the Hindu Marriage Act, 1955 has since been allowed. The 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 all the petitioners.

Learned counsel for the State, on instructions from ASI Jasvir Singh, 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 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. 11 dated 05.02.2013 registered under Sections 498A, 406 of IPC at Police Station Subhanpur, District Kapurthala 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(s) or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

July 17, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No