

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

**CRM No. M-42910 of 2016
Date of decision: 27.04.2017**

Vinod Kumar

..... Petitioner.

Versus

State of Punjab and another

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.K. Choudhary, Advocate, for the petitioner.

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

Mr. Suresh Kumar Arya, Advocate, for
Mr. Gagandeep 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. 46 dated 16.03.2015 registered under Sections 498-A and 406 of the Indian Penal Code (for short 'IPC') at Police Station Division No.1, Pathankot, District Gurdaspur and all other consequential proceedings arising therefrom on the basis of an amicable settlement (**Annexure P-1**) arrived at between the parties.

The above said FIR was registered at the behest of respondent No. 2-Smt. Pooza @ Pooja. The dispute arose between the parties because of matrimonial discord between the petitioner 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 and respondent No. 2 are now living together in a peaceful manner at their matrimonial home. The terms and conditions of the

compromise were reduced into writing on 20.11.2016. The compromise is on record of this petition as Annexure P-1.

This Court on 01.12.2016 directed the parties to appear before the learned Illaqa Magistrate/trial Court on 07.12.2016 for recording their statements in respect to the above-mentioned compromise. Learned Illaqa Magistrate/trial Court was directed to submit a report regarding the genuineness of the compromise and to intimate regarding pendency of any proclamation proceedings against the party.

Pursuant to order dated 01.12.2016, the parties appeared before the learned Additional Chief Judicial Magistrate, Pathankot and their statements were recorded on 07.12.2016. Respondent No.2-Smt. Pooja stated that she has amicably resolved the matter with the petitioner. The settlement has been arrived at voluntarily, without any kind of pressure. She stated that she is living with her husband, the petitioner-Vinod Kumar. She has no objection in case the above said FIR against the petitioner is quashed. Statement of the petitioner in respect to the settlement was also recorded. The Investigating Officer, ASI Balwinder Kumar, in this case appeared and stated before learned Additional Chief Judicial Magistrate, Pathankot that the petitioner is the sole accused and he is not a proclaimed offender.

As per report dated 10.01.2017, submitted by the learned Additional Chief Judicial Magistrate, Pathankot, it is opined that the compromise arrived at between the parties is genuine and valid. It is further mentioned that the petitioner is not a proclaimed offender and neither are any such proceedings pending against him.

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 petitioner.

Learned counsel for the State on instructions from HC Joginder Pal, Police Station Division No. I, Pathankot 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. 46 dated 16.03.2015 registered under Sections 498-A and 406 of the Indian Penal Code (for short 'IPC') at Police Station Division No.1, Pathankot, District Gurdaspur alongwith all consequential proceedings arising therefrom are hereby quashed qua the petitioner. However, liberty is afforded to respondent No. 2 to file necessary application for revival of the proceedings in the above said FIR, in case

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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.

(LISA GILL)
JUDGE

27.04.2017
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Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*