

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

**CRM No. M-43963 of 2015
Date of decision: 23.02.2017**

Naresh Kumar

..... Petitioner.

Versus

State of Punjab and another

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vineet Sehgal, Advocate for the petitioner.

Mr. K.D. Sachdeva, AAG, Punjab.

Mr. Raman B. Garg, 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. 164 dated 23.06.2010 registered under Sections 406 and 498-A of the Indian Penal Code (for short 'IPC') at Police Station Zirakpur and all other consequential proceedings arising therefrom on the basis of an amicable settlement arrived at between the parties.

The above said FIR was registered on an application submitted by respondent No.2-Smt. Gitanjali, who was married to petitioner- Naresh Kumar, alleging commission of offences under Sections 406 and 498-A IPC qua the petitioner.

The above said FIR arises out of matrimonial discord between petitioner and respondent No.2. Due to the intervention of respectables, elders and friends, 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. Present petition has been filed on the basis of this compromise.

It is submitted that a petition under Section 13-B of the Hindu Marriage Act for divorce by mutual consent was filed by the petitioner and respondent No. 2. The said petition is stated to be listed for 04.03.2017 for recording of statements of the parties at second motion.

This Court on 07.12.2016 directed the parties to appear before learned trial court/Illaq Magistrate on 12.01.2017 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 was directed to intimate whether the petitioner is a proclaimed offender and whether any other case is pending against him. Information was sought as to whether all affected persons are party to the settlement.

Pursuant to order dated 07.12.2016, the parties appeared before the learned Judicial Magistrate 1st Class, Dera Bassi and their statements were recorded on 12.01.2017. Respondent No.2-Smt. Gitanjali has stated that for the future of her daughter she has agreed to bury the hatchet and settle the dispute with the petitioner. She has agreed for a one time settlement of ₹ 15 lakhs before the learned Additional District Judge, Yamuna Nagar and Jagadhri on 28.09.2015. This amount is in lieu of all her claims including *istri dhan* and maintenance etc. for her as well as her daughter. It is further stated that this settlement has been arrived at voluntarily, out of her own free will to buy peace. It is not the result of any coercion or undue influence or inducement.

Respondent No.2 has stated that she has no objection to the quashing of the above mentioned FIR against the petitioner. Statement of the petitioner in respect of the settlement has also been recorded.

As per report dated 25.01.2017 submitted by the learned Judicial Magistrate 1st Class, Dera Bassi, it is noted that the compromise between the parties is genuine, voluntary and without any coercion or undue influence. The petitioner is the sole accused in this case and he is not a proclaimed offender. Statements of the parties have been appended alongwith the report.

Learned counsel for the complainant/respondent No.2 affirms and verifies the factum of settlement between the parties. It is stated that the entire amount of ₹ 15 lakhs has been received by respondent No. 2. She has no objection to the quashing of the above mentioned FIR.

Learned counsel for the State, on instructions from HC Harnek Singh submits that the present being a matrimonial dispute the State has no objection to the quashing of this FIR on the basis of the 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”.

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

This petition is, thus, allowed and FIR No. 164 dated 23.06.2010 registered under Sections 406 and 498-A IPC at Police Station Zirakpur alongwith all consequential proceedings arising therefrom are hereby quashed.

(LISA GILL)
JUDGE

23.02.2017
PA

Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*