

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

Criminal Misc. No. M- 45174 of 2016(O&M)

Date of Decision: July 7 , 2017.

Amit Goyal PETITIONER(s)

Versus

State of Haryana and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sunil Narang, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

Mr. Parvinder Singh, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.0028 dated 25.04.2016 under Sections 323/34/342/354A(1)/354A(2)/406/498A/506 IPC registered at Police Station Women, Hissar 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 petitioner and respondent No.2 have

decided to part ways and petition under Section 13B of the Hindu Marriage Act, 1955 has been filed. The said petition is now stated to be pending for 18.07.2017 for recording of the statements of the parties at second motion.

This Court on 14.03.2017 directed the parties to appear before the learned trial court/Illaqa Magistrate for recording their statements in respect to the above-mentioned compromise. Learned trial court/Illaqa 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/Illaqa Magistrate was also directed to intimate whether any of the petitioners are absconding/proclaimed offenders and whether any other case is pending against them. Information was sought as to whether all affected persons are a party to the settlement.

Pursuant to order dated 14.03.2017, the parties appeared before the learned Judicial Magistrate First Class, Hisar and their statements were recorded on 06.04.2017. Respondent No.2 stated that she has amicably resolved the entire dispute with the accused-petitioner. The settlement has been arrived at out of her own free will without any kind of pressure. Statement of the petitioner in regard to the settlement was also recorded.

As per report dated 10.04.2017 received from the learned Judicial Magistrate First Class, Hisar it is opined that the settlement between the parties is genuine arrived at out of free will of the parties without any kind of pressure. Photocopy of the statements of the parties is appended alongwith the said report.

Learned counsel for respondent No.2 submits that respondent No.2's share in the property i.e. Flat No.B-5/44, First Floor, Sector 17, Rohini,

Delhi i.e. 50% shall be transferred by her in the name of the petitioner before the date fixed in the petition under Section 13B of the Hindu Marriage Act, 1955 subject to approval of the Bank and other formalities which may be required.

Learned counsel for the petitioner, on instructions from the petitioner who is present in Court, submits that the liability to repay the loan qua the said property shall be borne entirely by him. Respondent No.2, it is affirmed, shall not be responsible in any manner for repayment of the loan amount against the said property. There shall be no liability qua respondent No.2 in respect to the said property.

In this view of the matter, learned counsel for respondent No.2 submits that respondent No.2 has no objection to the quashing of the abovementioned FIR against the petitioner. It is however submitted that the petitioner should be bound down to abide by the terms and conditions as have been settled between them and the petitioner should also be present for recording of his statement at second motion in the petition under Section 13B of the Hindu Marriage Act. The petitioner affirms and verifies that he shall abide by the terms and conditions of the settlement.

Learned counsel for the State, on instructions from ASI Sheela, 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.0028 dated 25.04.2016 under Sections 323/34/342/354A(1)/354A(2)/406/498A/506 IPC registered at Police Station Women, Hissar 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 including the terms as have been mentioned in this order 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 7, 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No