

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

Criminal Misc. No. M- 45851 of 2016(O&M)

Date of Decision: July 13 , 2017.

Balwinder Singh and others PETITIONER(s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Amit Gupta, Advocate
for the petitioners.

Mr. Karambir Singh, AAG, Punjab.

None for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.196 dated 05.10.2015 under Section 406/498A IPC registered at Police Station City Kharar, District SAS Nagar 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., petitioner No.1. The matter was amicably resolved between the parties before the Presiding Officer, Lok Adalat-cum-Additional Sessions Judge, SAS Nagar (Mohali). The terms and conditions of the settlement are reflected in order dated 12.12.2015 (Annexure P2). Respondent No.2 agreed that she would have no objection to the quashing of the abovesaid FIR.

Pursuant to the settlement, a petition under Section 13B of the Hindu

Marriage Act, 1955 was filed by petitioner No.1 and his wife respondent No.2. The same was ultimately decreed on 03.12.2016 after recording the statements of the parties at second motion. The certified copy of the petition under Section 13B of the Hindu Marriage Act, 1955 is on the record of this petition (Annexure P4). The same was filed in Court on 24.03.2017.

It is specifically mentioned therein that as per the compromise arrived at between the parties, a sum of ₹3,50,000/- was agreed to be paid to respondent No.2 towards her claims – past, present and future against petitioner No.1. A sum of ₹1,00,000/- already stood paid to respondent No.2, ₹1,25,000/- was paid at the time of recording of the statements of the parties at first motion in the abovesaid petition and the rest of the amount of ₹1,25,000/- was paid to respondent No.2 at the time of recording of the statements of the parties at second motion. It is mentioned in para 6 of the said decision dated 03.12.2016 that everything between the parties has been settled voluntarily and they would not claim anything from each other in future.

The petitioner has filed an affidavit on 24.04.2017 reiterating that the total agreed amount of ₹3,50,000/- has been paid to respondent No.2 and nothing remains due towards her. It is submitted that respondent No.2 is deliberately not appearing before this Court despite service in violation of the terms and conditions of the settlement as agreed upon despite the entire amount having been received by her. Therefore, the present petition should be allowed.

In such a situation, it has been held by the Hon'ble Supreme Court in **Ruchi Agarwal v. Amit Kumar Agrawal, 2004(4) RCR (Crl.) 949** as well as in **Mohd. Shamim v. Smt. Nahid Begum, 2005(1) RCR (Crl.) 697** that the proceedings in question should be quashed in the interest of justice as the

continuance of the same would amount to an abuse of the process of court.

In the present case, the compromise between the parties appears to be genuine. A perusal of the certified copy of the decision dated 03.12.2016 reveals that respondent No.2 has arrived at a settlement with her husband out of her own accord. The agreed amount is noted to be received by her. The terms and conditions of the settlement are duly detailed in order dated 12.12.2015 passed by the Presiding Officer, Lok Adalat-cum-Additional Sessions Judge, SAS Nagar, Mohali (Annexure P2). Petitioner No.1 has filed his affidavit dated 24.04.2017 in respect to the compliance of the terms and conditions of the settlement. Therefore, non-appearance of respondent No.2 despite service cannot be a ground for dismissal of this petition.

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.196 dated 05.10.2015 under Section 406/498A IPC registered at Police Station City Kharar, District SAS Nagar 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 facts projected before this Court are not as per the actual factual matrix.

July 13 , 2017.
'om'

(**LISA GILL**)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No