

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

CRM No. M-4528 of 2017

Date of decision: 31.05.2017

Raghubir Singh and others

..... Petitioners.

Versus

State of Punjab and another

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ankur Bansal, Advocate, for the petitioners.

Mr. Rajpreet Singh Sidhu, AAG, Punjab.

None 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. 180 dated 07.11.2013 registered under Sections 406,498-A of the Indian Penal Code (for short 'IPC') at Police Station Maqudan, Jalandhar 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 at the behest of respondent No. 2. The dispute arose between the parties because of matrimonial discord between petitioner No. 3 and respondent No.2

With the intervention of respectables, elders and relatives, the matter has been amicably resolved between the parties. The terms and conditions of the compromise were reduced into writing on 15.08.2016. The compromise is on record of this petition as Annexure P-3. Petitioner No.3 and respondent No.2 have decided to part ways and petition under Section 13- B of the Hindu Marriage Act, 1955, preferred by them, has since been allowed in April, 2017.

Learned counsel for the petitioners submits that there is no impediment to the quashing of the FIR on the basis of a settlement even though petitioner No. 3 was declared to be a proclaimed offender. It is further submitted that order dated 17.05.2014, declaring petitioner No. 3 to be a proclaimed offender was passed in violation of the provisions of law. Petitioner No. 3, it is submitted was not in India at the time of registration of this case and he has not visited India since then. He relies upon a judgment of this Court in **Balbir Singh Vs. State of Punjab and another 2011 (3) RCR(Criminal) 234** to submit that even if an accused has been declared a proclaimed offender, the matter can be set aside on the basis of a settlement arrived at between the parties. It is not denied by the respondents that petitioner No. 3 was abroad at the time of registration of the FIR and he has not visited India since then.

This Court on 28.03.2017 directed the parties to appear before the learned trial Court/Area Magistrate on 19.04.2017 for recording their statements in respect to the above-mentioned compromise. Learned trial court/Area Magistrate was directed to submit a report regarding the genuineness of the compromise. Information was sought regarding number of accused facing trial.

Pursuant to order dated 28.03.2017, the parties appeared before the learned Judicial Magistrate 1st Class, Jalandhar and their statements were recorded on 19.04.2017. Respondent No.2 stated that the matter has been amicably resolved by her with all the accused-petitioners. The settlement has been arrived at out of her own free will, voluntarily, without any undue pressure or coercion. It is further stated that her marriage with petitioner No. 3 stands dissolved vide decision dated 12.04.2017 by the learned Additional District Judge, Jalandhar-cum-NRI Court. The entire amount due towards

respondent No. 2 has been received by her. She has no objection to the quashing of the aforesaid FIR. Statements of the petitioners in respect to the settlement was recorded. Statement of petitioner No. 3 was recorded through his Power of Attorney holder namely, Raghubir Singh i.e. his father and petitioner No. 1.

As per report dated 28.04.2017, submitted by the learned Judicial Magistrate 1st Class, Jalandhar, it is opined that the compromise between the parties is genuine, voluntary, arrived at out of the free will of the parties, without any pressure, duress or undue influence. The present petitioners are arrayed as accused in the said FIR.

Mr. Gaurav Sharma and Mr. B.S. Bhinder, Advocates, for respondent No. 2 have on earlier occasions affirmed and verified the factum of settlement between the parties.

Learned counsel for the State on instructions from HC Daljeet Singh 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. 180 dated 07.11.2013 registered under Sections 406, 498-A of the IPC at Police Station Maqudan, Jalandhar alongwith all consequential proceedings arising therefrom including order dated 17.05.2014, declaring petitioner No. 3 to be a proclaimed offender, are hereby quashed.

(LISA GILL)
JUDGE

31.05.2017
PA

Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*