

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

Criminal Misc. No. M- 5390 of 2017(O&M)

Date of Decision: May 22 , 2017.

Balbir Singh and another PETITIONER(s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Munish Puri, Advocate
for the petitioners.

Mr. K.D.Sachdeva, Addl.AG, Punjab.

Mr. Sanjeev Kumar, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.26 dated 05.05.2015 under Sections 498A/406/323/34 IPC registered at Police Station Taragarh, District Pathankot 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 on account of matrimonial discord with her husband i.e., petitioner No.2. With the intervention of respectables and relatives, a compromise has been arrived at between the parties, the terms of which were reduced in writing on 06.02.2017. The parties wish to live in peace and harmony and put an end to the acrimony between them. Petitioner No.2 and respondent No.2 are informed to be living

together at their matrimonial home.

This Court on 24.03.2017 directed the parties to appear before learned trial court/Illaqa Magistrate on 17.04.2017 for recording of 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 24.03.2017, the parties appeared before the learned Judicial Magistrate First Class, Pathankot and their statements were recorded on 17.04.2017. Respondent No.2 stated that the matter has been amicably resolved by her with both the accused petitioners. The settlement has been arrived at out of her own sweet will without any pressure. Respondent No.2 stated that she has no objection to the quashing of the abovesaid FIR qua the petitioners. Statements of the petitioners have been recorded in respect to the settlement.

As per report dated 17.04.2017 received from the learned Judicial Magistrate First Class, Pathankot it is opined that the settlement between the parties is genuine, voluntary and arrived at without any coercion or undue influence. It is noted that out of the three accused in this case, accused Nirmal Kaur has since passed away. The other accused are the petitioners in the present petition. None of them are proclaimed offenders neither are any such

proceedings pending against them. The statements of the parties have been appended alongwith the said report.

Learned counsel for respondent No.2 reaffirms and verifies the factum of settlement between the parties. It is reiterated that respondent No.2 has no objection to the quashing of the abovementioned FIR against all the petitioners.

Learned counsel for the State, on instructions from ASI Sanjeev Kumar, verifies that respondent No.2 is living together with petitioner No.2 at her matrimonial home. It is submitted 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 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.26 dated 05.05.2015 under Sections 498A/406/323/34 IPC registered at Police Station Taragarh, District Pathankot 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 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.

May 22 , 2017.
'om'

(**LISA GILL**)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No