

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

**CRM No. M-5853 of 2017
Date of decision: 23.05.2017**

Vishal Kumar and others

..... Petitioners.

Versus

State of Punjab and another

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. A.S. Kakkar, Advocate, for the petitioners.

Mr. K.D. Sachdeva, Addl.A.G., Punjab.

Mr. Ranjit Singh, 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. 15 dated 09.04.2015 (**Annexure P-1**) registered under Section 498-A of the Indian Penal Code (for short 'IPC') at Police Station Women, District Bathinda and all other consequential proceedings arising therefrom on the basis of an amicable settlement (**Annexure P-2**) arrived at between the parties.

It is submitted that though all the three petitioners were named as accused in the above mentioned FIR, however, it is only petitioner No. 1, who is being proceeded against. Petitioners No. 2 and 3 have been found innocent during investigation. In this view of the matter, learned counsel for the petitioner seeks to withdraw this petition qua petitioners No. 2 and 3. Ordered accordingly.

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 -Vishal Kumar and respondent No.2- Poonam.

With the intervention of respectables, elders and relatives, the matter has been amicably resolved between the parties. It is submitted that the petitioner and respondent No. 2 along with their minor child are now living together in a peaceful manner. The terms and conditions of the compromise were reduced into writing on 03.02.2017. The compromise is on record of this petition as Annexure P-2.

This Court on 23.03.2017 directed the parties to appear before the learned Illaqa Magistrate/trial Court on 28.03.2017 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 Illaqa Magistrate/trial court was directed to intimate whether the petitioner is a proclaimed offender and whether any other case is pending against him.

Pursuant to order dated 23.03.2017, the parties appeared before the learned Judicial Magistrate 1st Class, Bathinda and their statements were recorded on 28.03.2017. Respondent No.2 stated that the matter has been amicably resolved between the parties with the intervention of relatives and friends. The settlement has been arrived at out of her own free will, without any threat or coercion. Respondent No. 2 has stated that she is now residing with the petitioner along with their minor son at Bathinda. She has no objection to the quashing of the aforementioned FIR against the petitioner in this situation. Statement of the petitioner in respect to the settlement was also recorded.

As per report dated 28.03.2017, submitted by the learned Judicial Magistrate 1st Class, Bathinda, it is opined that the settlement arrived at between the parties is genuine, voluntary, arrived at out of the free will of the parties, without any coercion or undue influence. It is submitted that the petitioner is not a proclaimed offender and neither are any such proceedings pending against him.

Learned counsel for the complainant/respondent No.2 affirms and verifies the factual position. Respondent No. 2, it is submitted has no objection to the quashing of the aforementioned FIR against the petitioner as she is now residing with the petitioner along with their minor child.

Learned counsel for the State on instructions from ASI Jagdev Singh, Police Station Women Cell, Bathinda 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. 15 dated 09.04.2015 registered under Section 498-A of the IPC at Police Station Women, District Bathinda alongwith all consequential proceedings arising therefrom 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 or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

(LISA GILL)
JUDGE

23.05.2017
PA

Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*