

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

Criminal Misc. M- No. 6025 of 2017 (O&M)

Date of decision : September 19, 2017

Rajinder Singh and others

.....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. N.S. Dandiwal, Advocate
for the petitioners.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Impinder Singh Dhaliwal, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 26 dated 29.04.2011 under Sections 498A, 323, 342, 506, 149 IPC registered at Police Station Kot Isse Khan, District Moga and all other consequential proceedings arising therefrom as well as for setting aside judgment and order dated 11.12.2014 passed by the learned Judicial Magistrate First Class, Moga, whereby petitioner No. 1 has been convicted and sentenced to undergo rigorous imprisonment for two years besides pay a fine of ₹1,000/- for the offence punishable under Section 498A IPC read with Section 34 IPC and in default thereof undergo rigorous imprisonment for ten days. He has been further sentenced to undergo rigorous imprisonment for six months for the offence punishable under Sections 342, 323, 506 IPC read with Section 34 IPC. Quashing of the abovementioned FIR is sought 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. With the intervention of respectables and relatives, a compromise has been arrived at between the parties, the terms of which were reduced into writing on 18.01.2017 (Annexure P-4). The present petition has been filed on the basis of this compromise.

It is to be noted that this petition survives qua petitioner No. 1 – Rajinder Singh only. Present petition was dismissed as withdrawn on 23.03.2017 qua petitioners No. 2 to 5 as they were acquitted by the learned trial Court vide judgment dated 11.12.2014.

It is informed that petition under Section 13B of Hindu Marriage Act, 1955 filed by respondent No. 2 and petitioner No. 1 has been allowed on 11.08.2017.

Learned counsel for the petitioner relies on a Division Bench judgment of this Court in **Sube Singh and another versus State of Haryana and another, 2013 (4) RCR (Crl.) 102** to submit that there is no impediment for quashing of a complaint/FIR at the appellate stage on the basis of a compromise particularly in matrimonial matters.

Pursuant to orders dated 25.04.2017/12.07.2017, statements of the parties were recorded. Respondent No. 2 in her statement recorded on 11.08.2017 before the learned Additional Sessions Judge, Moga stated that she has compromised the matter with the accused on 18.01.2017 out of her own free will, without any pressure and coercion. It is further stated that she has no objection whatsoever to the quashing of the abovesaid FIR as well as setting aside his conviction and sentence as a consequence of said settlement. Statement of the petitioner in respect to the compromise was

also recorded on 12.05.2017.

As per report dated 18.08.2017 received from the learned Additional Sessions Judge, Moga, it is opined that the compromise between the parties is genuine and an outcome of the free will and volition of the parties. Statements of the parties are 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 the petitioner and the consequent setting aside of the judgment and order dated 11.12.2014 of conviction and sentence.

Learned counsel for the State, on instructions from SI Baldev Singh, 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.

A Division Bench of this Court in Sube Singh's case (supra) has held as under:-

“The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such is fully justified on facts and circumstances of the case.”

It is held in the abovesaid case that there is no embargo against invoking the power under Section 482 Cr.P.C. after the conviction of an accused by the trial court and during the pendency of appeal against such conviction.

In the instant case, FIR No. 26 dated 29.04.2011 is a fallout of a matrimonial dispute between the parties. The matter has been amicably resolved between the parties who wish to give a quietus to the entire issue and carry on with their respective lives. Report dated 18.08.2017 submitted by the learned Additional Sessions Judge, Moga establishes that the compromise between the parties is genuine, arrived at out of their own free will. Therefore, non-acceptance of this compromise would lead to denial of complete justice to parties.

Keeping in view the facts and circumstances of this case, this petition is allowed. The judgment of conviction and order of sentence dated 11.12.2014 passed by the learned Judicial Magistrate First Class, Moga are set aside on the basis of the settlement dated 18.01.2017 arrived at between the parties. FIR No. 26 dated 29.04.2011 under Sections 498A, 323, 342, 506, 149 IPC registered at Police Station Kot Isse Khan, District Moga alongwith all consequential proceedings are, hereby, quashed. Resultantly,

the appeal preferred by the petitioners is rendered infructuous and shall be so declared by the learned appellate court at Moga.

September 19, 2017

(Lisa Gill)
Judge

rts

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No