

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

**CRM No. M-6667 of 2017
Date of decision: 06.04.2017**

Harjit Singh

..... Petitioner.

Versus

State of Punjab and another

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Kartik Gupta, Advocate, for the petitioner.

Mr. K.D. Sachdeva, Addl.A.G., 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. 38 dated 11.06.2015 (**Annexure P-1**) registered under Sections 498-A and 406 of the Indian Penal Code (for short 'IPC') at Police Station Gardhiwal, District Hoshiarpur and all other consequential proceedings arising therefrom on the basis of an amicable settlement (**Annexure P-2**) arrived at between the parties.

The above said FIR was registered at the behest of respondent No. 2-Smt. Suman Kumari. The dispute arose between the parties because of matrimonial discord between petitioner 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 30.01.2017. The compromise is on record of this petition as Annexure P-2.

It is submitted that there were three accused in this FIR i.e. the petitioner-husband of the complainant, her mother-in-law and the father-in-

law. The father-in-law of the complainant was acquitted by the learned trial Court on 16.08.2016. The other co-accused i.e. the mother-in-law was found innocent during investigation and was not proceeded against. Learned counsel submits that the petitioner was declared a proclaimed offender vide order dated 03.03.2016 in an absolutely illegal manner as the mandatory provisions of the law were not followed before passing of the said order. The petitioner had gone abroad on 04.07.2014 i.e. prior to the registration of the FIR. He returned in December, 2016. Pursuant to order dated 22.03.2017 passed by this Court in CRM No. M-6758 of 2017, the petitioner has appeared before the learned Judicial Magistrate 1st Class, Dasuya on 27.03.2017.

This Court on 22.03.2017 directed the parties to appear before the learned Illaqa Magistrate/trial Court on 27.03.2017 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. Information was sought as to whether all affected persons are party to the settlement.

Pursuant to order dated 22.03.2017, the parties appeared before the learned Judicial Magistrate 1st Class, Dasuya and their statements were recorded on 28.03.2017. Respondent No.2-Smt. Suman Kumari has stated that the matter has been amicably resolved with the petitioner, who is her husband. The settlement has been arrived at out of her own free will, without any threat, coercion or undue pressure. It is stated by her that she is residing with the

petitioner at their matrimonial home along with their two daughters. Respondent No. 2 has stated that she has no objection in case the above said FIR against the petitioner is quashed. Statement of the petitioner in respect to the settlement was recorded.

As per report dated 01.04.2017, submitted by the learned Judicial Magistrate 1st Class, Dasuya, it is opined that the compromise between the parties is genuine, arrived at out of their own free will. It is noted that the petitioner is not involved in any other case. Report of the Station House Officer, Police Station Garhdiwal is attached along with the said report.

Mr. Kulwant Singh, Advocate had appeared on behalf of respondent No. 2 on 22.03.2017. He had affirmed and verified the factum of settlement arrived at between the parties.

Learned counsel for the State on instructions from ASI Mohinder Singh, Police Station Gardhiwal 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. 38 dated 11.06.2015 (**Annexure P-1**) registered under Sections 498-A and 406 of the Indian Penal Code (for short 'IPC') at Police Station Gardhiwal, District Hoshiarpur alongwith all consequential proceedings arising therefrom are hereby quashed qua the petitioner. 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

06.04.2017
PA

Whether speaking/reasoned : *Yes/No.*
Whether reportable : *Yes/No.*