

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

Criminal Misc. No. M- 7856 of 2017(O&M)

Date of Decision: September 5 , 2017.

Yogesh Khullar and others PETITIONER(s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Payel Mehta, Advocate
for the petitioners.

Mr. Karanbir Singh, AAG, Punjab.

None for the complainant/respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.146 dated 27.05.2015 under Sections 406/498A/506 IPC registered at Police Station Dasuya District Hoshiarpur 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 due to matrimonial discord with her husband i.e., petitioner No.1. With the intervention of respectables and relatives, the matter was resolved between the parties. Petitioner No.1 and respondent No.2 have decided to part ways. Petition under Section 13B of the Hindu Marriage Act, 1955 (for short, the 'HMA'), it is submitted, has since been allowed on 31.07.2017. Certified copy of the

judgment and decree dated 31.07.2017 is attached with the file of this case.

Learned counsel for the petitioners submits that the entire settled amount of ₹7,50,000/- has since been handed over to respondent No.2 in terms of the settlement.

This Court on 26.04.2017 directed the parties to appear before learned trial court/Illaqa Magistrate 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 trial court/Illaqa Magistrate was also directed to intimate the number of persons arrayed as accused and whether any of the accused are absconding/proclaimed offenders.

Pursuant to order dated 26.04.2017, the parties appeared before the learned Sub Divisional Judicial Magistrate, Dasuya and their statements were recorded on 07.07.2017 and 12.07.2017. Respondent No.2 stated that the matter has been amicably resolved with all the accused petitioners in the presence of respectables of the locality. The settlement, it is stated, has been arrived at voluntarily without any pressure, coercion or undue influence. Respondent No.2 further stated that she has no objection to the quashing of the abovesaid FIR qua all the accused petitioners. Statements of the petitioners in respect to the settlement were recorded as well.

As per report dated 14.07.2017 received from the learned Sub Divisional Judicial Magistrate, Dasuya it is opined that the settlement between the parties is genuine, arrived at voluntarily without any coercion or undue influence. None of the accused is reported to be proclaimed offender.

Statements of the parties are appended alongwith the said report.

Respondent No.2 in this case appeared before this Court on 26.04.2017 and stated that the dispute has been settled between the parties. However, the matter was adjourned on her request as she was still to receive a sum of ₹4,00,000/- at the time of recording of statements of petitioner No.1 and respondent No.2 at second motion in the petition under Section 13B HMA. As mentioned above, the said petition under Section 13B HMA has since been allowed on 31.07.2017, thus there is no impediment in quashing of the FIR.

Learned counsel for the State 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.

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 merely lead to wastage of precious time of the court and would be an exercise in futility.

This petition is, thus, allowed and FIR No.146 dated 27.05.2015 under Sections 406/498A/506 IPC registered at Police Station Dasuya District Hoshiarpur 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 petitioners or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

September 5 , 2017.
'om'

(LISA GILL)
JUDGE

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