

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

Criminal Misc. No. M- 814 of 2017(O&M)

Date of Decision: July 27 , 2017.

Sukhbinder Singh and others PETITIONER(s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Gurcharan Dass, Advocate
for the petitioners.

Mr. Karambir Singh, AAG, Punjab.

None respondent No.2.

LISA GILL, J.

CRM No.23192 of 2017

Annexures P9 to P14 are taken on record subject to just exceptions.

Filing of certified copies of Annexures P9 to P11 is dispensed with.

CRM is disposed of.

CRM No.M-814 of 2017

Prayer in this petition is for quashing of FIR No.01 dated 01.01.2016 under Sections 498A/406/420/34 IPC registered at Police Station Women, Jagraon, District Ludhiana (Rural) and all other consequential proceedings arising therefrom on the basis of compromise dated 10.08.2016 (Annexure P2) 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 10.08.2016. The parties wish to live in peace and harmony and put an end to the acrimony between them.

It is to be noted that respondent No.2 – Paramjit Kaur appeared in person before this Court on 25.01.2017 and the following order was passed:-

“Respondent No.2 – Paramjit Kaur is present in person. She is duly identified by ASI Jaswinder Singh, Police Station Women, Jagraon, District Ludhiana. She submits that the dispute with the petitioners has been amicably settled by her. She has received part payment of the settled amount and the rest is to be received by her on 22.02.2017 at the time of second motion.”

Respondent No.2 and petitioner No.1 appeared before the learned Additional Civil Judge (Senior Division), Jagraon on 22.02.2017 in the proceedings under Section 13B of the Hindu Marriage Act, 1955. Respondent No.2 suffered the following statement:-

“My marriage was solemnized on 27.08.2009 by performance of Anand Karaj ceremony as per the Sikh religious and rites and rituals at Chand Palace Tajpur, with petitioner No.2 and one son namely Nanakjit Singh was born out of our wedlock. Due to different temperaments and habits, there arose certain contingencies between us and we have tried our level best with the intervention of the respectable and common friends, but we could not reconcile the matter. Since October, 2010 I am living separately from the petitioner No.2 and we have not co-habited with each other during this period. Today, I have received an amount of Rs.1,55,000/- vide DO No.021178 dated 21.02.2017 drawn of Axis Bank Ltd., Branch

Moga as remaining amount and now nothing is due against each other. It is further settled between us that our son namely Nanakjit Singh will remain in my care and custody and petitioner No.2 will not claim his custody in future. I shall make the statement before Hon'ble High Court tomorrow i.e. 23.02.2017 for quashing the FIR No.01/2016, U/s 406/498-A IPC. In case, I failed to appear before Hon'ble High Court, petitioner No.2 and his family members can get quash the FIR from Hon'ble High Court by placing certified copy of my statement. It is further settled that we will not file any criminal case or civil litigation against each other with dispute of our marriage. Our marriage may please be dissolved.”

A certified copy of this statement is attached with this petition as Annexure P13.

This Court on 23.02.2017 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 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.

However, the parties did not appear for recording of their statements in accordance with order dated 23.02.2017. Application was moved by the petitioner for affording another opportunity to the parties to appear before the learned trial court/Illaqa Magistrate. Liberty was afforded to the parties by this Court on 12.07.2017 to yet again appear before the concerned court for recording

of their statements.

It is submitted that the petitioners were present for recording of their statements in terms of orders passed by this Court before the learned Judicial Magistrate First Class, Jagraon on 21.07.2017. Intimation regarding order dated 12.07.2017 passed by this Court was duly given to respondent No.2 through registered post (Annexures P9 and P10), however she did not come present for recording her statement.

Learned counsel for the petitioners submits that the said registered post has been received back with the report that respondent No.2 does not reside at the said address any longer. It is further submitted that petitioner No.2 personally went to inform the father of the complainant in this respect, but it was informed by Jagtar Singh (father of respondent No.2) that his daughter has since got remarried and she will not be able to come present for recording of her statement in the present matter. Furthermore, as per the statement (Annexure P13) of respondent No.2 recorded on 22.02.2017 in the proceedings under Section 13B of the Hindu Marriage Act, 1955, it is clearly mentioned that in case she did not appear before the court for recording of her statement in respect to the abovesaid FIR, the certified copy of her statement can be pressed into use.

It is to be noted that petition under Section 13B of the Hindu Marriage Act, 1955 filed by petitioner No.1 and respondent No.2 has since been allowed on 22.02.2017. Copy of the judgment is attached as Annexure P14 with this petition. As per the statement of respondent No.2 duly recorded on 22.02.2017, it is clearly mentioned that the matter has been amicably resolved between the parties. Furthermore, she has received the pending amount of ₹1,55,000/- as per the settlement. The minor child will remain in her care and

custody and petitioners would not claim his custody. Respondent No.2 has specifically stated before the learned Family Court that,

“I shall make the statement before Hon'ble High Court tomorrow i.e. 23.02.2017 for quashing the FIR No.01/2016, U/s 406/498-A IPC. In case, I failed to appear before Hon'ble High Court, petitioner No.2 and his family members can get quash the FIR from Hon'ble High Court by placing certified copy of my statement. It is further settled that we will not file any criminal case or civil litigation against each other with dispute of our marriage. Our marriage may please be dissolved.”

Respondent No.2, duly identified by ASI Jaswinder Singh, Police Station Women, Jagraon, District Ludhiana appeared before this Court on 25.01.2017 i.e. prior to the abovesaid statement before the learned Family Court. She admitted the factum of settlement as well as receipt of part of the settled amount. Rest of the amount it was informed would be received by her on 22.02.2017 before the learned Family Court.

Certified copy of her statement dated 22.02.2017 before the learned Family Court (Annexure P13) has been placed on record. Respondent No.2 has received the rest of the settled amount and has expressed no reservation about the quashing of the FIR in question. In the given factual matrix non-recording of the statement of respondent No.2 before the learned trial court/Illaq Magistrate cannot be an impediment to the quashing of the abovesaid FIR. It appears that the matter has been amicably resolved between the parties.

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 futile exercise to permit the continuance of the present proceedings. The matter has been amicably settled between the parties. 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.01 dated 01.01.2016 under Sections 498A/406/420/34 IPC registered at Police Station Women, Jagraon, District Ludhiana (Rural) 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 any of the facts as mentioned in this order are not as per the factual position or 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.

July 27 , 2017.
'om'

(LISA GILL)
JUDGE

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