

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

**CRM No. M-824 of 2017
Date of decision: 02.03.2017**

Harwinder Singh

..... Petitioner.

Versus

State of Punjab and another

..... Respondents.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. J.S. Dadwal, Advocate, for the petitioner.

Mr. K.D. Sachdeva, AAG, Punjab

Mr. Sanjeev Kumar Bawa, 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. 37 dated 09.04.2016 (**Annexure P-2**) registered under Sections 406 and 498-A of the Indian Penal Code (for short 'IPC') at Police Station Garhshankar and all other consequential proceedings arising therefrom on the basis of an amicable settlement (**Annexure P-3**) arrived at between the parties.

The above said FIR was lodged at the behest of respondent No.2-Smt. Manjinder Kaur @ Mamta, who was married to petitioner-Harwinder Singh, alleging commission of offences under Sections 406 and 498-A of the IPC qua the petitioner.

The above said FIR arises out of matrimonial discord between the petitioner and respondent No.2. With the intervention of respectables, elders and relatives, a compromise has been arrived at between the parties.

The parties wish to live in peace and harmony and put an end to the

acrimony between them. Present petition has been filed on the basis of this compromise.

It is submitted that the parties have decided to reside together. Respondent No. 2 is presently residing at her matrimonial home along with her in-laws. It is further informed that after quashing of this FIR, necessary/ relevant papers shall be prepared and respondent No. 2 shall join her husband/petitioner along with the minor child at Australia.

This Court on 13.01.2017 directed the parties to appear before the learned trial Court on 19.01.2017 for getting their statements recorded in respect to the above-mentioned compromise. The statement of the petitioner was permitted to be recorded through his Special Power of Attorney holder namely, S.Gurdayal (Gurdial), who is the uncle (*chacha*) of the petitioner. Learned trial court 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 was directed to intimate whether the petitioner is a proclaimed offender and if any other case is pending against him.

Pursuant to order dated 13.01.2017, the parties appeared before the learned Sub Divisional Judicial Magistrate, Garshankar and their statements were recorded on 25.01.2017. Respondent No.2-Smt. Manjinder Kaur @ Mamta has stated that a settlement has been arrived at between the parties. S. Gurdayal @ Gurdial son of Sh. Saram Singh being Special Power of Attorney holder of the petitioner has executed this settlement. The settlement has been arrived at out of her own free will and volition without any kind of threat, force, coercion or undue influence. As per the compromise respondent No. 2 shall withdraw her complaint under the Protection of Women from Domestic

Violence Act as well as FIR No. 37 dated 09.04.2016. Respondent No. 2 and her husband agree to reside with each other. The compromise is stated to be genuine. Statement of the petitioner through his Special Power of Attorney namely, S. Gurdayal @ Gurdial in respect to the settlement has also been recorded.

Learned counsel for the petitioner submits that the petitioner Harwinder Singh shall be bound by the terms and conditions of the settlement. The petitioner shall also be bound by all acts and statements made on his behalf by his Special Power of Attorney and he will not raise any objection to the same. The petitioner shall take all necessary steps without any delay for the transit and residence of respondent No. 2 and their minor child at Australia.

As per report dated 03.02.2017, submitted by the learned Sub Divisional Judicial Magistrate, Garhshankar, it is opined that the compromise effected between the parties is genuine and has been arrived at without any pressure or coercion.

Learned counsel for the complainant/respondent No.2 affirms and verifies the factum of settlement between the parties. It is stated that respondent No. 2 has no objection, what so ever, to the quashing of the above mentioned FIR against the petitioner.

Learned counsel for the State on instructions from ASI Om Parkash 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 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”.

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 continuing the present proceedings. It will only lead to wastage of the precious time of the court and would be an exercise in futility.

This petition is, thus, allowed and FIR No. 37 dated 09.04.2016 registered under Sections 406 and 498-A of the IPC at Police Station Garhshankar alongwith all consequential proceedings arising therefrom are hereby quashed. However, liberty is afforded to respondent No.2 to file an appropriate application in this case for revival of the proceedings in FIR No. 37 dated 09.04.2016 in case necessary steps are not taken by the petitioner for transit and residence of respondent No. 2 and the minor child at Australia.

(LISA GILL)
JUDGE

02.03.2017
PA

Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*