

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

Criminal Misc. No. M- 9875 of 2017(O&M)

Date of Decision: October 30 , 2017.

Gagandeep Singh @ Gagan PETITIONER(s)

Versus

State of Punjab and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

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

Mr. Rahul Rathore, DAG, Punjab.

Mr. Impinder Singh Dhaliwal, Advocate for
Mr. H.S.Aujla, Advocate
for the complainant/respondent No.2.

None for respondent No.3

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.104 dated 15.11.2015 under Sections 365/148/149 IPC registered at Police Station City Raikot, District Ludhiana and all other consequential proceedings arising therefrom on the basis of a compromise arrived at between the parties.

It is submitted that the abovesaid FIR was registered at the instance of respondent No.2 due to certain misunderstandings. There was never any intention on the part of the petitioner to kidnap respondent No.2 and neither was there any kidnapping. The parties, it is submitted, belong to the same village

and are well known to each other. With the intervention of respectables of the village, the matter has been amicably resolved between the parties, the terms of which were reduced into writing on 24.11.2015 (Annexure P2). The parties wish to live in peace and harmony and put an end to the acrimony between them.

It is submitted that there is no impediment to the quashing of the abovementioned FIR on the basis of settlement between the parties in order to render complete justice to the parties. It is further submitted that the police on investigation recommended cancellation of the FIR, however learned Judicial Magistrate First Class, Jagraon vide order dated 28.02.2017 (Annexure P4) did not accept the cancellation report on the ground that the offence punishable under Section 365 IPC is non-compoundable.

This Court on 24.03.2017 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 of the parties without any coercion or undue influence. Learned trial court/Illaqa Magistrate was also directed to intimate the number of persons arrayed as accused and whether any is proclaimed offender.

Pursuant to order dated 24.03.2017, the parties appeared before the learned Judicial Magistrate First Class, 04.07.2017 and their statements were recorded on 04.07.2017. Respondent No.2 stated that the matter has been amicably resolved with the accused person. The settlement, it is stated, has been arrived at voluntarily, out of her own free consent, without any pressure from

any quarter. Respondent No.2 further stated that she has no objection in case the abovesaid FIR against the accused petitioner and consequential proceedings arising therefrom are quashed. She further stated that respondent No.3 – Harwinderjit Singh (the person accompanying her on 09.11.2015) could not come present for recording of his statement as he is residing abroad, but he is a signatory to the compromise dated 24.11.2015. He appended his signatures on the compromise in her presence and has no objection to the quashing of the abovesaid FIR. Statement of the petitioner in respect to the settlement was recorded as well.

As per report dated 05.07.2017 received from the learned Judicial Magistrate First Class, Jagraon, it is opined that the compromise between the parties is genuine and voluntary, arrived at without any coercion or undue influence. The petitioner is not reported to be proclaimed offender. 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 on the basis of settlement between the parties.

Learned counsel for the State raised no objection to the quashing of the FIR in question as well as all consequential proceedings on the basis of a settlement arrived at between the parties, especially keeping in view the fact that cancellation report in this case was prepared by the investigating agency. The learned Judicial Magistrate First Class, Jagraon had not accepted the cancellation report on the ground that the offence punishable under Section

365 IPC is not compoundable.

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”.

Keeping in view the facts and circumstances of this case and in order to dispense complete justice to the parties and enable them to live in peace and harmony, it is considered just and expedient to allow this petition 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.104 dated 15.11.2015 under Sections 365/148/149 IPC registered at Police Station City Raikot, District Ludhiana alongwith all consequential proceedings are, hereby, quashed.

October 30 , 2017.
'om'

(LISA GILL)
JUDGE

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