

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

Criminal Misc. No. M- 10995 of 2018(O&M)

Date of Decision: May 14 , 2018.

Manav Vinayak and others

..... PETITIONER(s)

Versus

State of Punjab and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. S.S.Rangi, Advocate
for the petitioners.

Ms. Ruchika Sabharwal, AAG, Punjab.

Mr. Yadvinder Pal, Advocate
for the complainant/respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.111 dated 29.07.2016, under Sections 498A/406/34 IPC, registered at Police Station Machhiwara Sahib, Police District Khanna, District Ludhiana 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 instance 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 was arrived at between the parties, the terms of which were reduced into writing on 07.03.2018

(Annexure P2). Petitioner No.1 and his wife, respondent No.2 decided to part ways. Learned counsel for the petitioners and respondent No.2 inform that petition under Section 13B of the Hindu Marriage Act, 1955 has been filed by petitioner No.1 and respondent No.2. Statements of the parties at first motion, it is submitted, have been recorded in the said proceedings and they undertake to abide by the terms and conditions of the settlement. The petitioners, it is submitted, undertake to hand over the balance of the settled amount to respondent No.2 in terms of the compromise (Annexure P2).

This Court on 02.04.2018 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.

Pursuant to order dated 02.04.2018, the parties appeared before the learned Judicial Magistrate First Class, Samrala and their statements were recorded on 20.04.2018. Respondent No.2 stated that she has voluntarily compromised the matter with the accused petitioners out of her own free will without any undue influence, coercion, inducement, threat or promise and has no objection in case the abovesaid FIR against the accused petitioners is quashed. It

is further stated that sum of ₹4,50,000/- was handed over to her and an FDR of ₹4,50,000/- in favour of the minor son had been prepared. Remaining amount of ₹5,00,000/- would be received by her as per the settlement. Joint statement of the petitioners in respect to the settlement was recorded as well.

As per report dated 23.04.2018 received from the learned Judicial Magistrate First Class, Samrala, satisfaction is expressed that the compromise between the parties is genuine and valid arrived at without any threat or undue influence. None of the petitioners are reported to be proclaimed offenders. 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 stated that respondent No.2 has no objection to the quashing of the abovementioned FIR subject to the petitioners strictly adhering to the terms and conditions of the settlement.

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 the FIR in question as well as all consequential proceedings 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.111 dated 29.07.2016, under Sections 498A/406/34 IPC, registered at Police Station Machhiwara Sahib, Police District Khanna, District Ludhiana 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.

May 14 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No