

Crl. Misc. No.M-11870 of 2018 (O&M)

1

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

**Crl. Misc. No.M-11870 of 2018 (O&M)
Date of decision : 27.11.2018**

Harjinder Kaur and another

.....Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr.Vivek K. Thakur , Advocate
for the petitioners.

Petitioner no.2 in person.

Ms. Jaspreet Kaur, AAG, Punjab.

Respondent no.2 in person with
Mr. M.S. Khaira, Advocate.

ANITA CHAUDHRY, J(ORAL)

The instant petition is for quashing of FIR No.94 dated 25.10.2015 registered under Sections 406 and 498-A IPC, Police Station Begowal, District Kapurthala and the consequent proceedings arising out of the same, on the basis of written compromise arrived at between the parties.

Report was received from the trial Court wherein it was mentioned that the complainant-respondent no.2 though had admitted the factum of compromise and receipt of Rs.6,75,000/- but she had claimed that the compromise had not been fully honoured by the accused-petitioners as they failed to withdraw the complaints. Statements of the parties were also recorded.

On the last date of hearing learned counsel for the petitioners had pointed out that the complaint filed under Section 500 IPC was withdrawn and the complainant had moved an application through his counsel in the case pending against Tejinder Singh in Italy Court. It was also stated that demand draft of the remaining amount of Rs.6.75 lacs, as per compromise, had been prepared but the complainant was not ready to accept the same.

In terms of the compromise between the parties, all the cases between them were to be withdrawn. An amount of Rs.13.5 lakh was agreed to be paid to the complainant, out of which she had already received a sum of Rs.6.5 lacs. As per documents placed on record, it is evident that petitioner no.2 has honoured the compromise and had filed application seeking to withdraw the case lodged in the Courts in Italy.

The counsel for the complainant (wife) states that the petitioner did not attend the last two hearings and he should be present in the Court in Italy on 4th December 2018.

Petitioner no.2 states that passport of petitioner no.2 is lying with the trial Court and he will attend the hearing of case in Italy Court on 04.12.2018 and facilitate and take all steps needed for withdrawal of the case against Tejinder Singh.

The demand draft of remaining amount of Rs.6.75 lacs has been handed over to counsel for respondent no.2 today in the Court.

Complainant states that she will also withdraw the complaint filed under the Domestic Violence Act.

Since the compromise has been effected and there is substantial compliance by the petitioners and the complaint filed under Section 500 IPC has been withdrawn and petitioner no.2 has approached the Italian Court seeking withdrawal of the complaint, no useful purpose would be served to keep the FIR pending.

In view of the statements and report of the trial Court and the principles laid down by the Full Bench judgment of this Court in **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, approved by Hon'ble Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303**, the instant petition is allowed and the aforesaid FIR and all consequent proceedings conducted on the basis thereof are quashed qua the petitioners.

Needless to say that parties shall remain bound by the terms of compromise and their statements made in the Court below.

The trial Court is directed to release the passport of petitioner no.2 against proper receipt and identification. As per undertaking, he will appear before the Courts at Italy in support of the application filed by him for withdrawal of the case pending against Tejinder Singh.

27.11.2018
J/S

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No