

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

Criminal Misc. No.M- 17746 of 2017 (O&M)

Date of decision : February 02, 2018

Dr. Deepak Verma

.....Petitioner

Versus

State of U.T. Chandigarh and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Jagbir Singh Brar, Advocate
for the petitioner.

Ms. Ashima Mor, APP, UT.

Mr. Jagat Singh Bawa, Advocate for
Mr. G.S. Walia, Advocate
for respondent No. 2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 23 dated 03.02.2011 under Sections 406, 498A IPC, registered at Police Station Sector 31, Chandigarh and all other consequential proceedings arising therefrom as well as for setting aside judgment and order dated 21.09.2016 passed by the learned Judicial Magistrate First Class, Chandigarh, whereby the petitioner has been convicted and sentenced to undergo rigorous imprisonment for two years besides pay a fine of ₹500/- for the offence punishable under Section 498A IPC and in default thereof undergo simple imprisonment for two months.

It is submitted that during the pendency of the appeal against

conviction filed by the petitioner before the District Sessions Judge, UT, Chandigarh, the matter has been amicably resolved between the parties. The petitioner and his wife – respondent No. 2 agreed to part ways. Petition under Section 13B of Hindu Marriage Act, 1955 has been allowed by the learned Additional District Judge, Chandigarh on 13.11.2017. The judgement and decree dated 13.11.2017 are attached as Annexure A1. The total settled amount of ₹38 lakhs has been handed over to respondent No. 2. Learned counsel for the petitioner refers to the statements of the parties recorded at first motion on 11.05.2017 as well as the statements recorded at second motion on 13.11.2017. A sum of ₹19 lakhs was handed over at the first instance by way of demand draft No. 100781 dated 02.05.2017 in favour of respondent No. 2 and another demand draft No. 834761 dated 09.11.2017 for a sum of ₹19 lakhs was handed over to respondent No. 2. It is submitted that in view of the full and final settlement between the parties, there is no impediment to the quashing of the aforementioned FIR as well as the judgment of conviction and order of sentence against the petitioner. Learned counsel for respondent No. 2 affirms and verifies the averments as above.

Learned counsel for the petitioner relies on a Division Bench judgment of this Court in **Sube Singh and another versus State of Haryana and another, 2013 (4) RCR (Crl.) 102** to submit that there is no impediment for quashing of a complaint/FIR at the appellate stage on the basis of a compromise particularly in matrimonial matters.

This Court on 07.11.2017 directed the parties to appear before learned trial court/Illaq Magistrate for recording their statements in respect to the above-mentioned compromise. Learned trial court/Illaq 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/Illaq Magistrate was also directed to intimate whether the petitioner is absconding/proclaimed offender and whether any other case is pending against him. Information was sought as to whether all affected persons are a party to the settlement.

Pursuant to order dated 07.11.2017, the parties appeared before the learned Additional District and Sessions Judge, Chandigarh on 13.11.2017. Joint statement of the petitioner and respondent No. 2 in respect to the settlement was recorded wherein it is stated that all matters have been amicably resolved by them. A sum of ₹38 lakhs has been handed over to respondent No. 2 as settlement of all her claims – past, present and future as well as of the minor child. It is stated that there is no other litigation pending between the parties.

As per report dated 16.11.2017 received from the learned Additional District and Sessions Judge, Chandigarh, satisfaction is expressed that the compromise between the parties is genuine. The petitioner is not reported to be a proclaimed offender. Statement 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 and the consequent setting aside of the judgment and order dated 21.09.2016 passed by learned Judicial Magistrate First Class, Chandigarh, in view 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 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.

A Division Bench of this Court in Sube Singh's case (supra) has held as under:-

“The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such is fully justified on facts and circumstances of the case.”

It is held in the abovesaid case that there is no embargo against invoking the power under Section 482 Cr.P.C. after the conviction of an accused by the trial court and during the pendency of appeal against such

conviction.

In the instant case, FIR No. 23 dated 03.02.2011 is a fallout of a matrimonial dispute between the parties. The matter has been amicably resolved between the parties who wish to give a quietus to the entire issue and carry on with their respective lives. Report dated 16.11.2017 submitted by the learned Additional District and Sessions Judge, Chandigarh, establishes that the compromise between the parties is genuine. Therefore, non-acceptance of this compromise would lead to denial of complete justice to parties.

Keeping in view the facts and circumstances of this case, this petition is allowed. The judgment of conviction and order of sentence dated 21.09.2016 passed by the learned Judicial Magistrate First Class, Chandigarh are set aside on the basis of the settlement dated 20.04.2017 arrived at between the parties. FIR No. 23 dated 03.02.2011 under Sections 406, 498A IPC, registered at Police Station Sector 31, Chandigarh alongwith all consequential proceedings are, hereby, quashed. Resultantly, the appeal preferred by the petitioner is rendered infructuous and shall be so declared by the learned appellate court at Chandigarh.

February 02, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No