

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

**Crl. Misc. No. M-20654 of 2017
Date of Decision : March 08, 2018**

Satvir Singh and anotherPetitioners

Versus

State of Punjab and others Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

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Present: Mr. Lakhwinder Singh, Advocate
for the petitioners.

Mr. Anmol Singh Sandhu, AAG, Punjab.

Mr. Rajender Kumar, Advocate
for respondents No. 2 and 3.

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LISA GILL, J. (Oral)

Prayer in this petition is for quashing of FIR No. 46 dated 20.06.2011 under Sections 498-A, 406 IPC registered at Police Station Jhunir, District Mansa, along with all other consequential proceedings arising therefrom as well as for setting aside judgment and order dated 16.02.2015 passed by the learned Sub Divisional Judicial Magistrate, Sardulgarh, whereby the petitioners were convicted for the offence punishable under Section 498-A IPC and sentenced to undergo rigorous imprisonment for a period of one and a half year each besides pay a fine of Rs.500/- each and in default thereof, to further undergo simple imprisonment for two months each, on the basis of compromise dated 26.05.2017 (Annexure P4) arrived at between the parties.

It is submitted that the appeal filed by the petitioners is pending

before the learned Additional Sessions Judge, Mansa. During the pendency of the proceedings the matter has been amicably resolved between the parties on 26.05.2017 (Annexure P4). Learned counsel relied upon the Division Bench judgment of this Court in ***Sube Singh and another v. State of Haryana and another***, 2013 (4) RCR (Criminal) 102 to submit that there is no impediment in quashing the proceedings at this stage.

It is further informed that petition under Section 13-B of the Hindu Marriage Act, 1955 by the parties has since been allowed on 04.08.2017. Respondent No.2 was married to petitioner No.2 and respondent No.3 was married to petitioner No.1. It is a case of two real sisters married to two real brothers. The entire settled amount has been received by respondents No. 2 and 3.

Pursuant to order dated 28.07.2017, the parties appeared before the learned Additional Sessions Judge, Mansa, and their statements were recorded on 07.09.2017. Respondents No.2 and 3 stated that the matter has been amicably resolved by them with the accused in this case without any threat, coercion or undue influence and they have no objection in case the judgment and order dated 16.02.2015 are set aside and the above-said FIR is quashed. In addition statements of the mother of respondents No. 2 and 3 as well as one Randhir Singh, Ex-member Panchayat of village Moffar, are recorded. Joint statement of both the petitioners in respect to the compromise was also recorded.

As per report dated 11.09.2017 received from the learned Additional Sessions Judge, Mansa, satisfaction is expressed that the settlement between the parties is genuine. It is mentioned that four persons were accused in this case. The present petitioners were convicted by the

learned trial Court while the other two were acquitted. None of the petitioners is reported to be a proclaimed offender. Statements of the parties are appended along with the said report.

Learned counsel for respondents No.2 and 3 reaffirms and verifies the factum of settlement between the parties. It is also affirmed that petition under Section 13-B of the Hindu Marriage Act, 1955 has been allowed and the entire settled amount has been received by respondents No. 2 and 3. It is reiterated that the said respondents have no objection to the quashing of the above-mentioned FIR against the petitioners as well as setting aside of judgment and order dated 16.02.2015 .

Learned counsel for the State has not raised any serious objection to the quashing of this FIR as well as judgment and order dated 16.02.2015 on the basis of a settlement arrived at between the parties as the present is a matrimonial dispute.

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 Cr.P.C. 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 Cr. P.C. but such a power, in our considered view, is exercisable at any stage say 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 above said 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. 46 dated 20.06.2011 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 11.09.2017 submitted by the learned Additional Sessions Judge, Mansa 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, it would be in the interest of justice to quash the above-said FIR and set aside judgment and order dated 16.02.2015 passed by the learned Sub Divisional Judicial Magistrate, Sardulgarh, as no useful purpose would be served by continuance of the present proceedings.

This petition is, thus, allowed. The judgment and order dated

16.02.2015 passed by the Sub Divisional Judicial Magistrate, Sardulgarh, are set aside on the basis of the settlement dated 16.02.2015 arrived at between the parties. FIR No.46 dated 20.06.2011 under Sections 498-A, 406 IPC registered at Police Station Jhunir, District Mansa, along with all consequential proceedings are, hereby, quashed. Resultantly, the appeal preferred by the petitioners is rendered infructuous and shall be so declared by the learned appellate court at Mansa.

08.03.2018

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**(LISA GILL)
JUDGE**

Note: Whether speaking/reasoned

Yes / No

Whether Reportable:

Yes / No