

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

Criminal Misc. No. M- 21107 of 2017(O&M)

Date of Decision: March 01 , 2018.

Tinkesh Kumar and others

..... PETITIONER(s)

Versus

State of and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Shekhar Verma, Advocate
for the petitioners.

Ms. Seena Mand, DAG, Punjab.

Mr. Tarun Sharma, Advocate for
Mr. R.S.Bajaj, Advocate
for the complainant/respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.0034 dated 31.03.2016 under Sections 406/498A IPC, registered at Police Station Women Cell, Jalandhar, District Jalandhar 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 09.05.2017 (Annexure P3). Petitioner No.1 and respondent No.2 decided to part ways.

It is informed that petition under Section 13B of the Hindu Marriage Act, 1955 filed by petitioner No.1 and respondent No.2 has since been allowed on 29.11.2017. The entire settled amount, it is submitted, has been received by respondent No.2.

This Court on 18.09.2017 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 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 18.09.2017, the parties appeared before the learned Judicial Magistrate First Class, Jalandhar and their statements were recorded on 13.10.2017. Respondent No.2 stated that the matter has been compromised by her with all the accused persons out of her own free will and consent without any pressure, coercion, undue influence or inducement from any quarter. Respondent No.2 stated that she has no objection in case the abovesaid FIR against the accused petitioners is quashed subject to the final statements in the petition under Section 13B of the Hindu Marriage Act, 1955 by petitioner No.1. Joint statement of the petitioners in respect to the settlement was recorded as well.

As per report dated 17.10.2017 received from the learned Judicial Magistrate First Class, Jalandhar, satisfaction is expressed that the compromise between the parties is genuine, not a result of any pressure or coercion. 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 reiterated that respondent No.2 has received the entire settled amount and has no objection to the quashing of the abovementioned FIR against the petitioners.

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.0034 dated 31.03.2016 under Sections 406/498A IPC, registered at Police Station Women Cell, Jalandhar, District Jalandhar 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 petitioner(s) or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

March 01 , 2018.
'om'

**(LISA GILL)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No