

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

Criminal Misc. No. M- 28533 of 2017(O&M)

Date of Decision: May 02 , 2018.

Kamal Jain and another

..... PETITIONER(s)

Versus

State of Punjab and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vivek Sethi, Advocate
for the petitioners.

Mr. K.S.Aulakh, DAG, Punjab.

None for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.141 dated 06.10.2016 under Section 498A IPC, registered at Police Station Model Town, Hoshiarpur 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. It is submitted that the matter has been amicably resolved between the parties before the National Lok Adalat, Hoshiarpur. The terms of settlement were reduced into writing on 08.04.2017 (Annexure P2). Petitioner No.1 and respondent No.2 decided to part ways.

Learned counsel for the petitioners submits 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 10.02.2018. Nothing remains due towards respondent No.2. It is thus prayed that this petition be allowed.

Certified copy of judgment and decree dated 10.02.2018 passed by the learned Additional District Judge, Hoshiarpur alongwith statements of the parties recorded at second motion the said proceedings, furnished in Court today, are taken on record subject to just exceptions.

This Court on 13.11.2017 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 13.11.2017, the parties appeared before the learned Chief Judicial Magistrate, Hoshiarpur and their statements were recorded on 30.11.2017. Respondent No.2 stated that she has amicably resolved the dispute with the petitioners out of her own free will and consent without any coercion or pressure from any quarter and has no objection in case the abovesaid FIR against the accused petitioners is quashed. Statements of the petitioners in

respect to the settlement were recorded as well. Statement of ASI Rakesh Kumar, Police Station Model Town, Hoshiarpur was recorded to the effect that the petitioners are not proclaimed offenders and not involved in any other criminal case.

As per report dated 22.12.2017 received from the learned Chief Judicial Magistrate, Hoshiarpur, satisfaction is expressed that the compromise between the parties is genuine and voluntary, arrived at without any coercion or undue influence. None of the petitioners are reported to be proclaimed offenders. Statements of the parties are appended alongwith the said report.

Mr. Kushagra Mahajan, Advocate had appeared on behalf of respondent No.2 before this Court on 13.11.2017. He had affirmed the factum of settlement between the parties and raised no objection in case the abovesaid FIR against the petitioners is quashed, pursuant to which the parties were directed to appear before the learned Area Magistrate/trial court for recording of their statements in respect to 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.141 dated 06.10.2016 under Section 498A IPC, registered at Police Station Model Town, Hoshiarpur alongwith all consequential proceedings are, hereby, quashed.

May 02 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No