

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

Criminal Misc. No.M- 31058 of 2017 (O&M)

Date of decision : February 22, 2018

Mohan Kaur and anotherPetitioners

Versus

State of Punjab and anotherRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Tejinder Pal Singh, Advocate
for the petitioner.

Mr. Sukhleen Singh, AAG, Punjab

Mr. Sarju Puri, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 92 dated 12.07.2014 under Sections 406, 498A IPC registered at Police Station city Nawanshahr, District SBS Nagar and all other consequential proceedings arising therefrom as well as order dated 27.05.2015 vide which petitioner No. 2 was declared a proclaimed offender, on the basis of a compromise arrived at between the parties.

It is submitted that petitioner No. 2 had left India even before the registration of the above said FIR. Impugned order dated 27.05.2015 was passed in contravention of provisions of law. Moreover, the matter has now been amicably resolved. Petition under Section 13B of Hindu Marriage Act, 1955 has been allowed on

14.03.2017 (Annexure P-8). The entire settled amount has been handed over to respondent No. 2. The present petition has been filed on the basis of this compromise.

This Court on 13.11.2017 directed the parties to appear before learned trial court for recording their statements in respect to the above-mentioned compromise. Learned trial court 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 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 Additional Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar and their statements were recorded on 09.01.2018. Respondent No.2 stated that she has compromised the matter with all the accused persons out of her own free will, without any pressure, threat and undue influence. It is further stated that she has received entire settled amount in respect to all her claims of permanent alimony etc. Respondent No.2 stated that she has no objection to the quashing of the abovesaid FIR qua the petitioners. Liberty was afforded to petitioner No. 2 to have his statement recorded through his authorised power of attorney holder i.e. petitioner No. 1 – his mother. Statement of petitioner No. 1 in respect to the compromise was recorded. She

submitted an affidavit that she is the power of attorney holder of her son i.e. petitioner No. 2. Statement on behalf of petitioner No. 2 was suffered by her.

Learned counsel for the petitioners submits that petitioner No. 2 undertakes to abide by all the acts and statements made on his behalf by his authorised power of attorney holder – Mohan Kaur, his mother. He has in fact carried out the terms and conditions of the settlement and shall remain bound by the same.

As per report dated 03.02.2018 received from the learned Additional Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar satisfaction is expressed that the compromise between the parties is genuine, arrived at out of the free will of the parties, without any threat, coercion or undue pressure. Petitioner No. 2 is reported to be a proclaimed person in terms of order dated 27.05.2015. 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 no objection to the quashing of the abovementioned FIR against the petitioners as well as all consequential proceedings including order dated 27.05.2015.

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.

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. 92 dated 12.07.2014 under Sections 406, 498A IPC registered at Police Station city Nawanshahr, District SBS Nagar alongwith all consequential proceedings including order dated 27.05.2015 are, hereby, quashed.

February 22, 2018
rts

(Lisa Gill)
Judge

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