

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

250

**Criminal Misc. No. M-33045-2017
Date of Decision: April 27, 2018.**

AMIT DAHIYA AND ORS.

..... PETITIONERS

Versus

STATE OF HARYANA AND ANR

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. M.K. Garg, Advocate
for the petitioners.

Mr. Anmol Malik, AAG, Haryana.

Mr.R.N. Lohan, Advocate
for the complainant/respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.129 dated 16.04.2015 under Sections 498-A, 323, 406, 34 IPC registered at Police Station Bhondsi, District Gurgaon 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 22.08.2017 (Annexure P-2). Petitioner No. 1 and respondent No. 2 decided to part ways.

It is informed that the petition under Section 13-B of the Hindu Marriage Act filed by petitioner No. 1 and respondent No. 2 has since been filed,

statements of the parties at first motion have been recorded and part of the settled amount handed over to respondent No. 2. The petitioner undertakes that the balance amount i.e. Rs.5 lakhs shall be handed over to respondent No. 2 at the time of recording of statements of the parties at second motion in the above said proceedings.

Parties undertake to abide by all the terms and conditions of the settlement.

This Court on 07.09.2017 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 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 07.09.2017, the parties appeared before the learned Judicial Magistrate First Class, Sohna and their statements were recorded on 18.11.2017. Respondent No.2 stated that the matter has been amicably resolved with all the petitioners, out of her own free will without any pressure, undue influence, coercion, inducement or threat. Pendency of the petition under Section 13-B of the Hindu Marriage Act as well as receipt of Rs.5 lakhs was mentioned. Respondent No.2 stated that she has no objection in case the abovesaid FIR against the accused/petitioner is quashed, subject to the petitioners

strictly adhering to the terms and conditions of the settlement. Joint statements of the petitioners in respect to the settlement were recorded as well.

As per report dated 21.11.2017 received from the learned Judicial Magistrate First Class, Sohna, it is opined that the compromise between the parties is genuine and voluntary, arrived at without any coercion or undue influence. Petitioners are not reported to be a proclaimed offender. 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 in case the abovementioned FIR is quashed subject to the petitioners strictly adhering to the terms and conditions of the settlement.

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.129 dated 16.04.2015 under Sections 498-A, 323, 406, 34 IPC registered at Police Station Bhondsi, District Gurgaon 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 petitioners or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

April 27, 2018
jyoti-3

(LISA GILL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No