

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

Criminal Misc. No.M- 33929 of 2017 (O&M)

Date of decision : February 28, 2018

Balkar Singh

.....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Sukhpreet Kaur, Advocate
for the petitioner.

Ms. Seena Mand, DAG, Punjab.

Ms. Suman Nandal, Advocate for
Mr. L.S. Mann, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 62 dated 07.12.2016 under Section 498A, registered at Police Station Gardhiwal, District Hoshiarpur and all other consequential proceedings arising therefrom on the basis of a compromise dated 04.09.2017 (Annexure P-2) 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 informed that petition under Section 13B of Hindu Marriage Act, 1955 ('the Act' – for short) has been filed. Statements of the parties at first motion have been recorded. Part of the settled

amount has been handed over to respondent No. 2. The petitioner, it is submitted, undertakes to hand over the balance amount of ₹2 lakhs to respondent No. 2 at the time of recording of their statements at second motion in petition under Section 13B of the Act on 15.03.2018. He further undertakes to abide by all the terms and conditions of the settlement in letter and spirit. It is, thus, prayed that this petition be allowed.

This Court on 13.09.2017 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 13.09.2017, the parties appeared before the learned Judicial Magistrate First Class, Dasuya and their statements were recorded on 20.09.2017. Respondent No.2 stated that the matter has been amicably resolved by her with the petitioner out of her own free will, without any influence or pressure. Original compromise was tendered as Ex. P1. Respondent No. 2 specifically stated that she does not wish to pursue the proceedings any more and

has no objection to the quashing of the abovesaid FIR qua the petitioner. Statement of the petitioner in respect to the compromise were also recorded.

As per report dated 06.10.2017 received from the learned Judicial Magistrate First Class, Dasuya satisfaction is expressed that the compromise between the parties is genuine, arrived at out of free will of the parties. The petitioner is 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 to the quashing of the abovementioned FIR against the petitioner.

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. 62 dated 07.12.2016 under Section 498A, registered at Police Station Gardhiwal, District Hoshiarpur 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.

February 28, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No