

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

Criminal Misc. No.M- 34618 of 2017 (O&M)

Date of decision : April 18, 2018

Durgesh Kumar

.....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rajeev Sharma, Advocate for
Mr. Kamaldeep Singh Sodhi, Advocate
for the petitioner.

Mr. Sukhleen Singh, AAG, Punjab

Mr. K.S. Lakhanpal, Advocate for
Mr. Rakesh Gupta, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 110 dated 14.10.2016 under Sections 309, 377, 223, 506 IPC registered at Police Station Urban Estate, District Patiala and all other consequential proceedings arising therefrom on the basis of compromise dated 18.08.2017 (Annexure P-2) arrived at between the parties before the Mediation and Conciliation Centre of this Court.

The abovesaid FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband - petitioner.

It is submitted that the petitioner and respondent No. 2 have filed petition under Section 13B of Hindu Marriage Act, 1955 ('the Act'- for short). Their statements at first motion have been recorded and part of the settled amount has been handed over to respondent No. 2. The petitioner

undertakes to hand over the rest of the settled amount in terms of settlement and further undertakes to abide by the terms and conditions of the settlement dated 18.08.2017 arrived at before the Mediation and Conciliation Centre of this Court.

This Court on 22.01.2018 directed the parties to appear before learned trial court/Illaq Magistrate for recording their statements in respect to the above-mentioned compromise. Learned trial court/Illaq 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/Illaq 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 party to the settlement.

Pursuant to order dated 22.01.2018, the parties appeared before the learned ACJM, Patiala, and their statements were recorded on 16.02.2018. Respondent No.2 stated that the matter has been compromised by her with her husband out of her own free will. It is mentioned that petition under Section 13B of the Act has been filed by her and her husband and the matter is pending for 21.07.2018 for recording of statements at second motion. Petition under Section 125 Cr.P.C. filed by her stood withdrawn. Respondent No.2 stated that she has no objection to the quashing of the abovesaid FIR qua the petitioner. Statement of the petitioner in respect to the compromise was also recorded.

As per report dated 07.03.2018 received from the learned ACJM, Patiala, satisfaction is expressed that the compromise between the

parties is genuine, arrived at out of free will of the parties, without any coercion or undue influence. The petitioner is not reported to be a proclaimed offender. Statement of ASI Bhupinder Singh, the Investigating Officer in this respect was also recorded. 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 subject to strict adherence to the terms and conditions of the settlement by the petitioner.

Learned counsel for the State, on instructions from ASI Jarnail Singh, 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. 110 dated 14.10.2016 under Sections 309, 377, 223, 506 IPC registered at Police Station Urban Estate, District Patiala 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 or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

April 18, 2018
rts

(Lisa Gill)
Judge

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