

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

CRM-M-35068 of 2017 (O&M)

Date of Decision:01.02.2018

Kanish Kumar Gupta

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Saroj Malakar, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl.AG, Haryana.

None for respondent no.2.

LISA GILL, J(Oral).

Prayer in this petition is for quashing of FIR No.22 dated 08.06.2015, under Sections 406, 498-A, 323, 506 IPC, registered at Police Station Mansa Devi Complex, Panchkula, along with all other consequential proceedings arising therefrom on the basis of compromise/settlement dated 09.02.2017 dated (Annexure P-2) arrived at between the parties.

It is submitted that the above-said FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband-petitioner no.1. It is informed that petition under Section 13-B of the Hindu Marriage Act, 1955, has since been allowed on 08.11.2017. Therefore, it is prayed that this petition be allowed.

Certified copy of judgment and decree dated 08.11.2017, filed in Court today, is taken on record subject to just exceptions.

This Court on 31.10.2017 directed the parties to appear before the learned trial court for recording of 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 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 31.10.2017, the parties appeared before the learned Judicial Magistrate Ist Class, Panchkula, and their statements were recorded on 08.11.2017. Respondent No.2 stated that she has amicably resolved the matter with the accused-petitioner out of her own free will, without any kind of pressure, fear or undue influence and she has no objection in case the above mentioned FIR against the accused-petitioner is quashed.

As per report dated 13.11.2017, received from the learned Judicial Magistrate Ist Class, Panchkula, satisfaction is expressed that the compromise between the parties is genuine, arrived at out of the free will of the parties, without any pressure or undue influence. Petitioner is not reported to be a proclaimed offender.

Respondent no.2 had appeared in this Court in person on 31.10.2017 and she had expressed no objection to the quashing of the abovesaid FIR against the petitioner.

Learned counsel for the State has not raised any serious

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 above-said 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.22 dated 08.06.2015, under Sections 406, 498-A, 323, 506 IPC, registered at Police Station Mansa Devi Complex, Panchkula, along with 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.

01.02.2018

s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.