

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

1. Criminal Misc. No.M- 35465 of 2017(O&M)
Date of Decision: February 06 , 2018.

Gurmukh Singh PETITIONER(s)

Versus

State of Punjab and another RESPONDENT (s)

2. Criminal Misc. No. M-4001 of 2017 (O&M).

Gurmukh Singh PETITIONER(s)

Versus

State of Punjab RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Roopak Bansal, Advocate
for the petitioner.

Mr. Jasdeep Singh Walia, Sr.DAG, Punjab.

None for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This order shall dispose of CRM No.M-36465 of 2017 (Gurmukh

Singh v. State of Punjab and another) and CRM No.M-4001 of 2017

(Gurmukh Singh v. State of Punjab and another).

CRM No.M-35465 of 2017 has been filed for quashing of FIR No.03 dated 25.07.2015 under Sections 406/498A IPC, registered at Police Station NRI, Kapurthala and all other consequential proceedings arising therefrom on the basis of a compromise arrived at between the parties.

CRM No.M-4001 of 2017 has been filed for quashing of order dated 22.01.2016 passed by the learned Additional Chief Judicial Magistrate, Kapurthala whereby the petitioner was declared a proclaimed person in the aforesaid FIR.

It is submitted that the abovesaid FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband, the petitioner. With the intervention of respectables and relatives, a compromise was arrived at between the parties, the terms of which were reduced into writing on 05.05.2016 (Annexure P2). The parties decided to part ways. It is submitted that the petitioner was declared a proclaimed person vide order dated 22.01.2016 in contravention of the provisions of law as the petitioner had gone to USA on 05.03.2014 and has never returned therefrom till date.

It is informed that that petition under Section 13B of the Hindu Marriage Act, 1955 filed by the petitioner and respondent No.2 has since been allowed on 10.03.2017. The entire settled amount of ₹10,00,000/- has since been received by the complainant/respondent No.2. Copy of statement of respondent No.2 recorded at second motion in the proceedings under Section 13B of the Hindu Marriage Act, 1955, produced in Court today, is taken on record subject to just exceptions.

This Court on 06.10.2017 directed the parties to appear before learned trial court for recording their statements in respect to the above-mentioned compromise. Liberty was afforded to the petitioner to record his statement through his authorized power of attorney holder, Pritam Singh. 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 06.10.2017, the parties appeared before the learned Additional Chief Judicial Magistrate, Kapurthala and their statements were recorded on 31.10.2017. Respondent No.2 stated that she has compromised the matter with the accused petitioner out of her own free will, without any pressure or coercion. Compromise (Ex.C1) was accepted by her. Respondent No.2 stated that she has no objection in case the abovesaid FIR against the accused petitioners is quashed. Statement of the petitioner in respect to the settlement through his authorized power of attorney (Pritam Singh) was recorded as well. Statement of MHC Surjit Singh, Police Station NRI Kapurthala was recorded on 16.11.2017.

As per report dated 15.01.2018 received from the learned Additional Chief Judicial Magistrate, Kapurthala, satisfaction is expressed that the settlement arrived at between the parties is genuine, arrived at out of their own free will without any pressure. The petitioner is reported to be the sole

accused in this case. Statements of the parties are appended alongwith the said report.

Ms. Neelam Rani, Advocate had appeared on behalf of respondent No.2 before this Court on 06.10.2017. She had affirmed and verified the factum of settlement between the parties and submitted that respondent No.2 has no objection to the quashing of the abovementioned FIR against the petitioner, pursuant to which the parties were directed to have their statements recorded in respect to the settlement.

Learned counsel for the State has raised no serious objection to the quashing of the FIR in question as well as all consequential proceedings 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

CRM No.M-35465 of 2017 and a connected case

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to wastage of precious time of the court and would be an exercise in futility.

This petition is, thus, allowed and FIR No.03 dated 25.07.2015 under Sections 406/498A IPC, registered at Police Station NRI, Kapurthala alongwith all consequential proceedings as well as order dated 22.01.2016 passed by the learned Additional Chief Judicial Magistrate, Kapurthala are, hereby, quashed.

February 06 , 2018.
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(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No