

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

Criminal Misc. No.M- 36147 of 2017 (O&M)

Date of decision : February 22, 2018

Harcharan Singh and others

.....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Mohit Garg, Advocate for
Mr. Bhoop Singh, Advocate
for the petitioners.

Mr. Sukhleen Singh, AAG, Punjab

Mr. Prateek Pandit, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 55 dated 01.08.2013 under Sections 498A, 406, 506 IPC registered at Police Station Dhilwan, District Kapurthala and all other consequential proceedings arising therefrom as well as order dated 06.01.2015 wherein petitioner No. 3 was declared a proclaimed person on the basis of a compromise arrived at between the parties before the Mediation and Conciliation Centre of this Court on 21.03.2017 (Annexure P-2).

It is submitted that order dated 06.01.2015 was passed in violation of provisions of law. Petitioner No. 3 had left India on 18.03.2015 i.e. before the registration of the FIR and has not returned to India ever since. Petitioner No. 3 was never served in accordance with law. Moreover, the matter has now been amicably resolved

between the parties. Petition under Section 13B of Hindu Marriage Act, 1955 filed by petitioner No. 3 and respondent No. 2 has been allowed on 17.01.2018. The entire settled amount has been handed over to respondent No. 2. The abovesaid averments are affirmed and verified by learned counsel for respondent No. 2. The present petition has been filed on the basis of this compromise.

This Court on 21.12.2017, directed the parties to appear before learned trial court for recording 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/Illaq Magistrate was also directed to intimate whether any of the petitioners are absconding/proclaimed offenders and whether any other case is pending against them. Information was sought as to whether all affected persons are a party to the settlement.

Pursuant to order dated 21.12.2017, the parties appeared before the learned Additional Chief Judicial Magistrate, Kapurthala and their statements were recorded on 17.01.2018. Respondent No.2 stated that the matter has been compromised by her with all the accused persons out of her own free will, without any pressure or coercion. It is stated that she received two demand drafts dated 16.01.2018 and 28.12.2017 amounting to ₹4 lakhs each in terms of compromise tendered as Ex. P1. (Total settled amount of ₹12 lakhs stands received by her). Respondent No.2 specifically stated that she has no objection

to the quashing of the abovesaid FIR qua the petitioners. Statements of the petitioners in respect to the compromise were also recorded. Statement of petitioner No. 3 was recorded through his power of attorney holder i.e. petitioner No. 1 – his father. Statement of MHC Sukhwinder Singh was recorded as well.

Learned counsel for the petitioners submits that petitioner No. 3 undertakes to abide by all the acts and statements made on his behalf by his authorised power of attorney holder – Harcharan Singh/petitioner No. 1. He has in fact carried out the terms and conditions of the settlement and shall remain bound by the same.

As per report dated 17.02.2018 received from the learned Additional Chief Judicial Magistrate, Kapurthala, satisfaction is expressed that the compromise between the parties is voluntarily, without any kind of pressure upon the parties. Petitioner No. 3 is reported to be a proclaimed person in terms of order dated 06.01.2015. 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. Learned counsel for respondent No.2 has again reiterated that respondent No.2 has no objection to the quashing of the abovementioned FIR against the petitioner including order dated 06.01.2015.

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. 55 dated 01.08.2013 under Sections 498A, 406, 506 IPC registered at Police Station Dhilwan, District Kapurthala and all other consequential proceedings arising therefrom including order dated 06.01.2015 are, hereby, quashed.

February 22, 2018
rts

(Lisa Gill)
Judge

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