

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

**CRM-M-38109 of 2017(O&M)
Date of Decision:30.05.2018**

Gurwinder Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.H.S.Sidhu, Advocate
the petitioner.

Ms. Ruchika Sabharwal, AAG., Punjab.

Mr.Arshdeep Singh, Advocate
for Mr.G.S.Sandhu, Advocate
for respondents no.2 and 3.

LISA GILL, J(Oral).

Prayer in this petition is for quashing of FIR No.54 dated 26.07.2016, under Sections 363, 366 IPC, registered at Police Station Khalra, District Tarn Taran, along with all other consequential proceedings arising therefrom on the basis of a compromise dated 18.09.2017 (Annexure P-2) arrived at between the parties.

It is submitted that no offence under Section 363, 366 IPC, is made out against the petitioner as the petitioner solemnized marriage with respondent no.3 i.e. the daughter of respondent no.2 at whose instance the above-mentioned FIR was registered. Respondent no.2 has also accepted this marriage now. The couple has been blessed with a daughter and all of

them are living together in the matrimonial home. It is thus prayed that this petition be allowed.

This Court on 19.02.2018 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 19.02.2018, the parties appeared before the learned Judicial Magistrate Ist Class, Patti, on 27.03.2018. Respondent No.2 stated that the matter has been amicably resolved with the petitioner out of his own free will, without any pressure or coercion and he has no objection to the quashing of the aforementioned FIR. Respondent no.3 stated that she solemnized marriage with the petitioner. They have been blessed with a child and she was residing happily with the petitioner and has no objection to the quashing of the aforementioned FIR against the petitioner. Statement of the petitioner in respect to the settlement was recorded.

As per report dated 05.04.2018, received from the learned Judicial Magistrate Ist Class, Patti, satisfaction is expressed that the compromise between the parties is genuine, voluntarily arrived at out of the free will of the parties, without any pressure or coercion. Petitioner is

not reported to be a proclaimed offender.

Learned counsel for respondents no.2 and 3 affirms and verifies the factum of settlement between the parties. It is reiterated that respondents No.2 and 3 have no objection to the quashing of the above-mentioned 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.

Normally, this Court would hesitate to interfere in a petition for quashing of FIR under Sections 363, 366 IPC, on the basis of compromise. However, it is not in dispute that the petitioner and respondent no.3 have solemnized marriage. They are blessed with a child and are living together happily in the matrimonial home. Respondent no.2 and his family have accepted this matrimonial alliance. In case proceedings are allowed to continue in this matter, it would amount to denial of complete justice to 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”.

Keeping in view the peculiar facts and circumstances of the case, it is considered just and expedient to allow this petition without

delving on the issue of maintainability of a petition for quashing of an FIR for offences punishable under Sections 363, 366 IPC on the basis of a compromise.

This petition is, thus, allowed and FIR No.54 dated 26.07.2016, under Sections 363, 366 IPC, registered at Police Station Khalra, District Tarn Taran, alongwith all consequential proceedings are, hereby, quashed.

30.05.2018
s.khan

[LISA GILL]
Judge

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