

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

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**Criminal Misc. No. M-38122-2017 (O&M)
Date of Decision: May 25, 2018.**

Sunil Gupta and ors.

..... PETITIONERS

Versus

State of Punjab and anr.

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Naveen S. Bhardwaj, Advocate, for the petitioners.

Ms. Ruchika Sabharwal, AAG, Punjab.

Mr.Tushant Deep Garg, Advocate,
for respondent No. 2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.141 dated 28.08.2010 under Sections 498A, 406 of the Indian Penal Code ('IPC' for short) registered at Police Station City (South) Moga, and all other consequential proceedings including order dated 07.06.2012 (Annexure P-6) whereby the petitioner No. 1 was declared as proclaimed offender arising therefrom on the basis of a compromise arrived at between the parties.

Learned counsel for the petitioners informs that petitioners No. 2 and 3 have been acquitted by the learned trial court on 06.01.2018, therefore, this petition is rendered infructuous qua them and survives only qua petitioner No. 1.

It is submitted that order dated 07.06.2012 was passed in violation of the settled principles of law as petitioner No. 1 admittedly left India in May 2008

and never returned thereafter till date. Moreover, the matter has been amicably resolved between the parties. Respondent No. 2 does not wish to proceed with the matter any longer. Petition under Section 13-B of the Hindu Marriage Act, 1955 filed by petitioner No. 1 and respondent No. 2 has since been allowed on 04.04.2018. The entire settled amount has been handed over to respondent No. 2/complainant. It is thus, prayed that this petition be allowed.

This Court on 23.03.2018 directed the parties to appear before learned trial court/Illaqa Magistrate for recording their statements in respect to the above-mentioned compromise. Learned trial court/Illaqa 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/Illaqa Magistrate was also directed to intimate whether the petitioners 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 23.03.2018 , the parties appeared before the learned Chief Judicial Magistrate, Moga and their statements were recorded on 02.04.2018. Liberty was afforded to petitioner No. 1 to appear before the learned trial court through his Special Power of Attorney holder and father, Sh. Sugan Chand Gupta, who is also arrayed as petitioner No. 2 in this petition. Respondent No.2 stated that the matter has been amicably resolved with all the accused persons in this FIR. Pendency of Petition under Section 13-B of the Hindu Marriage Act, 1955 as well as receipt of part of settled amount was mentioned.

Respondent No. 2 further stated that the matter has been amicably resolved with

the petitioners, out of her own free will without any pressure, coercion or undue influence and has no objection in case the abovesaid FIR against the accused/petitioners is quashed after receipt of Rs. 15 lakhs on 04.04.2018. It is duly mentioned that petitioners No. 2 and 3 have been acquitted in the said FIR. Statement of petitioner No. 1 through his Special Power of Attorney holder and father was recorded as well. Statements of petitioners No. 2 and 3 were also recorded despite their acquittal in the said proceedings.

As per report dated 11.04.2018 received from the learned Chief Judicial Magistrate, Moga, satisfaction is expressed that the compromise between the parties is genuine and arrived out of their own free will without any pressure, threat or coercion. Statements of the parties are appended alongwith the said report. None of the accused/petitioners are reported to be proclaimed offenders.

Learned counsel for respondent No.2 affirms and verifies the factum of settlement between the parties. It is affirmed that petition under Section 13B of the Hindu Marriage Act has since been allowed and the entire settled amount has been received by respondent No. 2, who has no objection in case the abovementioned FIR is quashed against petitioner No.1. Respondent No. 2 further undertakes not to challenge the judgment of acquittal qua petitioners No. 2 and 3.

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.141 dated 28.08.2010 under Sections 498A, 406 of the Indian Penal Code ('IPC' for short) registered at Police Station City (South) Moga, alongwith all consequential proceedings including order dated 07.06.2012 (Annexure P-6) whereby the petitioner No. 1 was declared as proclaimed offender are, hereby, quashed.

May 25, 2018
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(LISA GILL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No