

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

Criminal Misc. No.M- 38455 of 2017 (O&M)

Date of decision : February 19, 2018

Peeyush Arora and others

.....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Simranjeet Singh Sarwara, Advocate for the petitioner.

Mr. Sukhleen Singh, AAG, Punjab

Ms. Sukhpreet Kaur, Advocate for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 26 dated 29.04.2015 under Sections 406/498A, 120B IPC registered at Police Station Women Cell, Jalandhar City, District Jalandhar and all other consequential proceedings arising therefrom as well as order dated 29.10.2015 passed by learned Judicial Magistrate First Class, Jalandhar whereby the petitioners have been declared to be proclaimed offenders, on the basis of a compromise arrived at between the parties.

The abovesaid FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband i.e., petitioner No.1. The entire dispute was amicably resolved with the intervention of respectables. The terms and conditions of the settlement were rendered into writing on 21.11.2016 (Annexure P-4).

It is submitted that order dated 29.10.2015 was passed in

contravention of the settled provisions of law. The petitioners were residing in Canada since long. Admittedly, the proclamation notice was affixed outside the house of the petitioner at New Delhi, which even as per report attached as Annexure P-2, was found to be locked. Moreover, the matter has been amicably resolved between the parties. Petition under Section 13B of Hindu Marriage Act, 1955 ('the Act' – for short) filed by petitioner No. 1 and respondent No. 2 has since been allowed on 04.12.2017. The entire settled amount has been handed over to respondent No. 2.

This Court on 23.10.2017 directed the parties to appear before learned Illaqa Magistrate for recording their statements in respect to the above-mentioned compromise. Learned 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 Illaqa 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 23.10.2017, respondent No. 2 and the petitioners through their authorised power of attorney holder – Manjit Singh appeared before the learned Judicial Magistrate First Class, Jalandhar and their statements were recorded on 04.12.2017. Respondent No.2 stated that she has compromised the matter with all the accused petitioners with the intervention of respectables. The compromise, it is stated, is genuine, arrived at out of her own free will, without any pressure, coercion, undue influence and inducement. It is stated that she has no grudge or ill-will

against any of the accused petitioners and has no objection to the quashing of the abovesaid FIR qua the petitioners. It is further stated that statements at second motion in the petition under Section 13B of the Act were recorded on the same day i.e. 04.12.2017 and she has received the entire settled amount of ₹7 lakhs towards all her claims. Statements of all the petitioners were recorded through their power of attorney holder – Manjit Singh. He stated that he was the authorised power of attorney holder of all the petitioners duly embossed vide Sr. No. 1992 dated 18.11.2016/No. 1615 dated 24.11.2017 - Exs. C3 and C4. Details of the payment deposited with respondent No. 2 were given.

Learned counsel for the petitioners submits that all the petitioners undertake to abide by all the acts and statements made on their behalf by their authorised power of attorney holder – Manjit Singh. They have carried out the terms and conditions of the settlement and shall remain bound by the same.

As per report dated 06.12.2017 received from the learned Judicial Magistrate First Class, Jalandhar satisfaction is expressed that the compromise between the parties is genuine and not the result of any pressure or coercion. All three accused are reported to be proclaimed persons in terms of order dated 29.10.2015. It is duly noted that their statements are recorded through their power of attorney holder. 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 as well as passing of the judgment and decree in the proceedings under Section 13B of the Act on 04.12.2017.

It is confirmed that the entire settled amount of ₹7 lakhs has been received by respondent No. 2 and she has no objection to the quashing of the abovementioned FIR against the petitioners.

Learned counsel for the State submits that all the petitioners are proclaimed offenders though no serious objection has been raised to the quashing of the FIR on the basis of a settlement arrived at between the parties in view of the fact that the present case arises out of a matrimonial dispute.

I have perused the service report (Annexure P-2), wherein it is mentioned that the house of the accused was found locked and warrants were sent back unserved. Thereafter, affixation was done on the locked premises and order dated 29.10.2015 was passed. Furthermore, the matter has been amicably resolved between the parties and they have ultimately given a quietus to the entire dispute. Continuance of the proceedings shall indeed amount to denial of 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”.

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.26 dated 29.04.2015 under Sections 406/498A, 120B IPC registered at Police Station Women Cell, Jalandhar City, District Jalandhar and all other consequential proceedings arising therefrom as well as order dated 29.10.2015 passed by learned Judicial Magistrate First Class, Jalandhar whereby the petitioners have been declared to be proclaimed offenders, are, hereby, quashed.

February 19, 2018
rts

(Lisa Gill)
Judge

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