

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

CRM-M-40145 of 2017 (O&M)

Date of Decision:04.05.2018

Gurpreet Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Sharad Mehra, Advocate
the petitioners.

Mr. D.S.Sukarcharkia, DAG, Punjab.

Mr. Sourabh Arora, Advocate
for Mr. Naveen Batra, Advocate
for respondent no.2.

LISA GILL, J(Oral).

Prayer in this petition is for quashing of FIR No.4 dated 03.01.2013, under Sections 406, 498-A IPC, registered at Police Station Bhikhiwind, District Tarn Taran including judgment dated 21.03.2016 (Annexure P-3) passed by the learned Judicial Magistrate Ist Class, Patti, along with all other consequential proceedings arising therefrom on the basis of a compromise arrived at between the parties.

It is submitted that the above-said FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband-petitioner no.1. The petitioners were convicted by the learned trial Court for the offences punishable under Sections 406, 498-A IPC vide judgment dated 21.03.2016 (Annexure P-3).

However, with the intervention of the respectables and other family members, the matter was amicably resolved between the parties. It is submitted that petition under Section 13-B of the Hindu Marriage Act, 1955, filed by petitioner no.1 and respondent no.2, has since been allowed in February 2018. The entire settled amount has been received by respondent no.2. It is further submitted that the appeal filed by the petitioners is pending before the learned Appellate Court.

Learned counsel for the petitioner relies on a Division Bench judgment of this Court in **Sube Singh and another versus State of Haryana and another, 2013 (4) RCR (CrL.) 102** to submit that there is no impediment for quashing of a complaint/FIR at the appellate stage on the basis of a compromise particularly in matrimonial matters.

This Court on 18.01.2018 directed the parties to appear before the learned Judicial Magistrate Ist Class for recording of their statements in respect to the above-mentioned compromise. It was directed that 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 be submitted. Learned court was also directed to intimate whether 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 18.01.2018, the parties appeared before the learned Judicial Magistrate Ist Class, Patti, on 20.02.2018.

Respondent No.2 stated that she has compromised the matter with the

accused-petitioners out of her own sweet will, without any pressure or coercion and she has no objection in case the abovesaid FIR against all the petitioners is quashed. Joint statement of all the petitioners in respect to the settlement were recorded.

As per report dated 26.03.2018, 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. Petitioners are not reported to be proclaimed offenders.

Learned counsel for respondent No.2 affirms and verifies the factum of settlement between the parties. It is reiterated that respondent No.2 has no objection to the quashing of the above-mentioned FIR against all the petitioners and setting aside of judgment and order dated 21.03.2016. It is confirmed that petition under Section 13-B of the Hindu Marriage Act, 1955, has since been allowed and the entire settled amount received by respondent no.2.

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.

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.

A Division Bench of this Court in Sube Singh's case (supra) has held as under:-

“The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such is fully justified on facts and circumstances of the case.”

It is held in the abovesaid case that there is no embargo against invoking the power under Section 482 Cr.P.C. after the conviction of an accused by the trial court and during the pendency of appeal against such conviction.

In the instant case, FIR No.4 dated 03.01.2013 is a fallout of a matrimonial dispute between the parties. The matter has been amicably resolved between the parties who wish to give a quietus to the entire issue and carry on with their respective lives. Report dated 26.03.2018 submitted by the learned Judicial Magistrate Ist Class, Patti establishes that the compromise between the parties is genuine, arrived at out of their own free will. Therefore, non-

acceptance of this compromise would lead to denial of complete justice to parties.

Keeping in view the facts and circumstances of this case, this petition is allowed. The judgment of conviction and order of sentence dated 21.03.2016 passed by the learned Judicial Magistrate First Class, Patti are set aside on the basis of the settlement dated 16.09.2017 (Annexure P-5) arrived at between the parties. FIR No.4 dated 03.01.2013, under Sections 406, 498-A IPC, registered at Police Station Bhikhiwind, District Tarn Taran alongwith all consequential proceedings are, hereby, quashed. Resultantly, the appeal preferred by the petitioners is rendered infructuous and shall be so declared by the learned appellate court at Tarn Taran.

04.05.2018

s.khan

[LISA GILL]
Judge

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