

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

Criminal Misc. No.M- 41489 of 2017 (O&M)

Date of decision : May 10, 2018

Amit Kumar Shirvastava and others

.....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rakesh Gupta, Advocate
for the petitioners.

Ms. Ruchika Sabharwal, AAG, Punjab.

None for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 5 dated 11.01.2017 under Sections 406, 498A IPC registered at Police Station Women, District Patiala and all other consequential proceedings arising therefrom on the basis of compromise dated 05.09.2017 (Annexure P-2) 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.

It is submitted that petitioner No. 1 has agreed to accept the decree of divorce granted in favour of respondent No. 2. The entire settled amount has since been handed over to respondent No. 2.

It is noticed that respondent No. 2 appeared before this Court on 05.02.2018 and reiterated that she had received the entire amount of

₹6 lakhs as per the compromise and has no objection to the quashing of the aforementioned FIR against the petitioners.

This Court on 05.02.2018 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 05.02.2018, the parties appeared before the learned Judicial Magistrate First Class, Patiala and their statements were recorded on 26.04.2018. 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 threat or coercion. Respondent No.2 stated that she has no objection to the quashing of the abovesaid FIR qua the petitioners. Joint statement of the petitioners in respect to the compromise was also recorded.

As per report dated 26.04.2018 received from the learned Judicial Magistrate First Class, Patiala satisfaction is expressed that the compromise between the parties is genuine, executed between the parties out of their own free will and consent, without any threat or pressure. None of the petitioners is reported to be a proclaimed offender. Statements of the parties are appended alongwith the said report.

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. 5 dated 11.01.2017 under Sections 406, 498A IPC registered at Police Station Women, District Patiala alongwith all consequential proceedings are, hereby, quashed.

May 10, 2018
rts

(Lisa Gill)
Judge

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