

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

Criminal Misc. No. M- 4309 of 2018(O&M)

Date of Decision: May 29 , 2018.

Nitin Kumar and others

..... PETITIONER(s)

Versus

State of Punjab and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rahul Rampal, Advocate
for the petitioners.

Ms. Ruchika Sabharwal, AAG, Punjab.

Mr. Rajesh Kumar, Advocate
for respondents No.2 and 3.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.18 dated 05.08.2017 under Sections 406/498A IPC, registered at Police Station NRI, District Ludhiana and all other consequential proceedings arising therefrom 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 of his daughter/respondent No.3 with her husband i.e., petitioner No.1. With the intervention of respectables and relatives, a compromise was arrived at between the parties, the terms of which were reduced into writing on 03.01.2018 (Annexure P2). Petitioner No.1 and respondent No.3

decided to part ways.

It is informed that petition under Section 13B of the Hindu Marriage Act, 1955 has been filed by petitioner No.1 and respondent No.3. Their statements at first motion in the said proceedings have been recorded. It is submitted that the petitioners undertake to abide by the terms and conditions of the settlement arrived at between the parties. It is thus prayed that this petition be allowed.

This Court on 05.02.2018 directed the parties to appear before learned trial court/Illaq Magistrate for recording their statements in respect to the above-mentioned compromise. Liberty was afforded to respondent No.3 to have her statement recorded through her authorized power of attorney holder and father, Mangal Singh (respondent No.2). Learned trial court/Illaq 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/Illaq 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 Chief Judicial Magistrate, Ludhiana and their statements were recorded on 28.02.2018. The complainant/respondent No.2 stated that he has compromised the matter with all the accused persons out of his own free will and consent without any kind of pressure or coercion. Copy of compromise dated 03.01.2018

was tendered as Ex.C2. Respondent No.2 specifically stated that there is no objection in case the abovesaid FIR against the accused petitioners is quashed. Statements of the petitioners in respect to the settlement were recorded as well.

As per report dated 30.03.2018 received from the learned Chief Judicial Magistrate First Class, Ludhiana, satisfaction is expressed that the compromise arrived at between the parties is genuine and voluntary, arrived at without any undue influence or coercion. None of the petitioners are reported to be proclaimed offenders. Statements of the parties are appended alongwith the said report.

Learned counsel for respondents No.2 and 3 reaffirms 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 abovementioned FIR against the petitioners.

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 the FIR in question as well as all consequential proceedings 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.18 dated 05.08.2017 under Sections 406/498A IPC, registered at Police Station NRI, District Ludhiana alongwith all consequential proceedings are, hereby, quashed.

However, liberty is afforded to respondents No.2 & 3 to file necessary application for revival of the proceedings in the above said FIR, in case the terms and conditions of settlement between the parties are not adhered to by the petitioners or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

May 29 , 2018.
'om'

(**LISA GILL**)
JUDGE

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