

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

Criminal Misc. No.M- 42248 of 2017 (O&M)

Date of decision : February 23, 2018

Sunny Soin and others

.....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. C.L. Verma, Advocate
for the petitioners.

Ms. Seena Mand, DAG, Punjab.

Mr. Ashok K. Sharma, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 108 dated 18.06.2011 under Sections 324, 323, 498A IPC registered at Police Station Salem Tabri, Ludhiana, 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 with her husband i.e., petitioner No.1.

It is informed that 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 17.11.2017. The entire settled amount has been received by respondent No. 2. All her claims qua the petitioner stand settled.

Learned counsel for the petitioners submits that petitioner No. 2 i.e. the mother-in-law of the complainant could not appear before the learned trial Court in terms of order dated 21.11.2017 as it came to light that non-bailable warrants had been issued qua her by the learned trial Court on 24.03.2017. Bail applications moved by petitioner No. 2 for anticipatory bail in the year 2014 were dismissed by this Court. The matter was pending investigation. Petitioner No. 2 was kept in column No. 2 as it is so reflected in order dated 10.10.2016. Petitioner No. 2 has also filed CRM-M-5770-2018 seeking concession of anticipatory bail, however, respondent No. 2 has clearly stated that she has no objection to the quashing of aforementioned FIR against all the accused petitioners in view of the settlement. Therefore, non-appearance of petitioner No. 2 should not be an impediment to the quashing of this FIR as petitioner No. 2 undertakes to be bound by the terms and conditions of the settlement (which have in fact been carried out) and respondent No. 2 has also expressed that she has no objection to the quashing of this FIR qua petitioner No. 2 as well.

Learned counsel for respondent No. 2 affirms the factum of settlement as well as the averments in respect to petitioner No. 2. It is submitted that respondent No. 2 has no objection to the quashing of the

aforementioned FIR against all the petitioners including petitioner No. 2.

Learned counsel for the State verifies passing of order dated 10.10.2016 by the learned Additional Sessions Judge, Ludhiana wherein it is mentioned that petitioner No. 2 was kept in column No. 2 on being found innocent.

This Court on 21.11.2017 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 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 21.11.2017, the parties appeared before the learned Judicial Magistrate First Class, Ludhiana and their statements were recorded on 07.12.2017. Respondent No.2 stated that she has compromised the matter with all the accused out of her own free will, without any pressure or undue influence and she no longer wishes to pursue the proceedings. She specifically stated that petition under Section 13B of the Act was allowed on 17.11.2017. Respondent No.2 stated that she has no objection to the quashing of the abovesaid

FIR qua all the petitioners. Statements of all the petitioners except petitioner No. 2 in respect to the compromise were also recorded.

As per report dated 22.02.2018, received from the learned Judicial Magistrate First Class, Ludhiana satisfaction is expressed that the compromise between the parties is genuine, arrived at out of the free will of the parties, without any pressure or undue influence. It is noted that the complainant – respondent No. 2 has specifically stated that she no objection to the quashing of the aforementioned FIR against petitioner No. 2 as well. None of the petitioners is reported to be a proclaimed offender. 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. It is reiterated that respondent No. 2 has 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 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. 108 dated 18.06.2011 under Sections 324, 323, 498A IPC registered at Police Station Salem Tabri, Ludhiana, District Ludhiana alongwith all consequential proceedings are, hereby, quashed.

February 23, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No