

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

Criminal Misc. No.M- 42349 of 2017 (O&M)

Date of decision : February 23, 2018

Shelly Dhillon and others

.....Petitioners

Versus

State of Haryana and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. N.S. Shekhawat, Advocate for the petitioners.

Mr. Anmol Malik, AAG, Haryana.

Mr. Dharampal Gill, Advocate for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 238 dated 06.11.2016 under Sections 323, 506, 34 IPC and Section 12 of Protection of Children from Sexual Offences Act, 2012 ('the Act' – for short) registered at Women Police Station Gurgaon, District Gurgaon and all other consequential proceedings arising therefrom on the basis of a compromise arrived at between the parties before the Mediation and Conciliation Centre of this Court on 04.05.2017 (Annexure P-2).

It is submitted that no offence punishable under Sections 323, 506, 34 IPC and Section 12 of the Act is made out against the petitioners and the abovesaid FIR was registered primarily due to matrimonial discord between petitioner No.1 and respondent No. 2. FIR No. 0547 dated 11.11.2016 under Sections 323, 498A, 506, 34 IPC registered at Police Station Badshahpur, District Gurgaon has been quashed by this Court vide separate order of even date in CRM-M-41257-2017 on the basis of settlement arrived at between the parties.

It is submitted that the matter was amicably resolved by the parties before the Mediation and Conciliation Centre of this Court. Pursuant thereto, petition under Section 13B of the Hindu Marriage Act was filed. Statements of the parties at second motion have also been recorded on 22.01.2018 and the matter is now listed for 12.03.2018.

This Court on 21.11.2017 directed the parties to appear before learned Chief Judicial Magistrate, Gurgaon for recording their statements in respect to the above-mentioned compromise. Learned Chief Judicial Magistrate, Gurgaon 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 Chief Judicial Magistrate, Gurgaon 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 Chief Judicial Magistrate, Gurgaon and their statements were recorded on 18.12.2017. Respondent No.2 - complainant stated that the matter has been amicably resolved out of his own free will. Respondent No. 2 further stated that the daughter born of his wedlock with petitioner No. 1 (aged about 13 years) was also present in Court. He further stated that he does not wish to pursue the matter any longer and has no objection to the quashing of the abovesaid FIR qua all the petitioners. A joint statement of all the three

petitioners in respect to the compromise was also recorded. Statement of LASI Reena Devi was recorded as well.

As per report dated 08.01.2018 received from the learned Chief Judicial Magistrate, Gurgaon satisfaction is expressed that the compromise between the parties is genuine, arrived at voluntarily by the parties, without any kind of pressure or coercion. 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 and submits that respondent No. 2 is a natural guardian of his daughter. Custody of the child is with him even as per the settlement arrived at between petitioner No. 1 and respondent No.2. He is entitled to compromise the matter especially in terms of Section 320(4) Cr.P.C.. Learned counsel for respondent No. 2 submits that he has no objection to the quashing of the abovementioned FIR against the petitioners.

Learned counsel for the State, on instructions from SI Sunita, submits that as the dispute basically 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”.

Though this Court would be hesitant to quash an FIR registered under the Protection of Children from Sexual Offences Act, but it is noticed that the instant matter arises primarily from matrimonial discord between petitioner No. 1 and respondent No. 2. Both of them have parted ways and decided to give a quietus to the matter. They wish to carry on with their lives in peace now. Thus, continuance of proceedings would indeed amount to denial of complete justice to the parties.

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. 238 dated 06.11.2016 under Sections 323, 506, 34 IPC and Section 12 of Protection of Children from Sexual Offences Act, 2012 registered at Women Police Station Gurgaon, District Gurgaon alongwith all consequential proceedings are, hereby, quashed.

February 23, 2018
rts

(Lisa Gill)
Judge

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