

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

Criminal Misc. No.M- 42691 of 2017 (O&M)

Date of decision : February 19, 2018

Mandeep Mahajan

.....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gaurav Partap S. Pathania, Advocate
for the petitioner.

Mr. Sukhleen Singh, AAG, Punjab

Mr. L.S. Mann, Advocate for
Mr. Suneet Singh Deol, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 70 dated 26.11.2014 under Sections 406, 498A IPC registered at Police Station Taragarh, District Pathankot and all other consequential proceedings arising therefrom on the basis of a compromise dated 27.10.2017 (Annexure P-2).

The abovesaid FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband – petitioner. It is submitted that petition under Section 13B of Hindu Marriage Act, 1955 ('the Act' – for short) has been filed by the parties. Their statements at first motion have been recorded. A sum of ₹2.75 lakhs has been handed over to respondent No. 2. The petitioner undertakes to hand over the rest of the settled amount i.e. ₹2.75 lakhs to respondent No. 2 at the time of recording

of the statements of the parties at second motion in the above said petition.

This Court on 10.11.2017 directed the parties to appear before learned trial court/Illaq Magistrate for recording their statements in respect to the above-mentioned compromise. 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 the petitioner is absconding/proclaimed offenders and whether any other case is pending against him. Information was sought as to whether all affected persons are a party to the settlement.

Pursuant to order dated 10.11.2017, the parties appeared before the learned Judicial Magistrate First Class, Pathankot and their statements were recorded on 18.12.2017. Respondent No.2 stated that the matter has been compromised out of her own free will, without any kind of pressure. It is stated that petition under Section 13B of the Act has been filed, which is pending for 19.04.2018 for recording of the statements of the parties at second motion. Respondent No.2 stated that she has no objection to the quashing of the abovesaid FIR qua the petitioner. Statement of the petitioner in respect to the compromise was also recorded.

As per report dated 06.01.2018 received from the learned Judicial Magistrate First Class, Pathankot, satisfaction is expressed that the compromise between the parties is genuine, arrived at out of the free will of the parties, without any kind of coercion or undue influence. The petitioner is not 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 subject to strict adherence to the terms and conditions of the settlement by the petitioner.

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. 70 dated 26.11.2014 under Sections 406, 498A IPC registered at Police Station Taragarh, District Pathankot alongwith all consequential proceedings are,

hereby, quashed.

However, liberty is afforded to respondent No.2 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 petitioner(s) or it is found that the settlement was a mere ruse to have the aforesaid FIR quashed.

February 19, 2018
rts

(Lisa Gill)
Judge

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