

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

Criminal Misc. No.M- 43202 of 2017 (O&M)

Date of decision : February 02, 2018

Vikas Thakran and others

.....Petitioners

Versus

State of Haryana and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Shashi Kumar Yadav, Advocate
for the petitioners.

Mr. Ashok S. Chaudhry, Addl. AG, Haryana.

Mr.Amit Yadav, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 0406 dated 25.05.2017 under Sections 498A, 406, 377, 354B, 506 IPC registered at Police Station Sector 7, Faridabad 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 submitted that petition under Section 13B of Hindu Marriage Act, 1955 ('the Act' – for short) has been filed by respondent No. 2 and petitioner No. 1. Statements of the parties at first motion have been recorded. A sum of ₹15 lakhs out of total settled amount of ₹20 lakhs has been handed over to

respondent No. 2. The petitioners undertake to hand over remaining sum of

₹5 lakhs to respondent No. 2 at the time of recording of statements of the parties at first motion in petition under Section 13B of the Act on 28.02.2018.

This Court on 15.11.2017 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 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 15.11.2017, the parties appeared before the learned Judicial Magistrate First Class, Faridabad and their statements were recorded on 08.12.2017. Respondent No.2 stated that the matter has been amicably resolved by her and petition under Section 13B of the Act was filed. It is stated that she had received a sum of ₹15 lakhs out of total amount of ₹20 lakhs. All gold ornaments were also received by her. It is stated that the compromise arrived at is out of her free will, without any fear or pressure. Respondent No.2 stated that she has no objection to the quashing of the abovesaid FIR qua the petitioners. Joint statement of all the accused petitioners in respect to the compromise was also recorded.

As per report dated 12.12.2017 received from the learned Judicial Magistrate First Class, Faridabad satisfaction is expressed that the compromise between the parties is genuine, arrived at between the parties

voluntarily, without any coercion or undue influence. 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.0406 dated 25.05.2017 under Sections 498A, 406, 377, 354B, 506 IPC registered at Police Station Sector 7, Faridabad 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 02, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No