

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

Criminal Misc. No.M- 45024 of 2017 (O&M)

Date of decision : May 02, 2018

Rahul Sharma and others

.....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Bhupinder Gupta, Advocate for
Mr. G.S. Madaan, Advocate
for the petitioners.

Mr. K.S. Aulakh, DAG, Punjab.

Mr. Harpal Singh, Advocate for
Mr. N.S. Mahal, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No. 79 dated 16.09.2017 under Section 498A IPC registered at Police Station Women Cell, District Ludhiana and all other consequential proceedings arising therefrom on the basis of compromise dated 16.10.2017 (Annexure P-2) 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) has been filed by petitioner No. 1 and respondent No. 2. Their statements at first motion have been recorded. Part of the settled amount has been received by respondent No. 2. The petitioners, it is submitted, undertake to abide by the terms and conditions of the settlement and hand over the balance amount to respondent No. 2 at the time of recording of statements of the parties at second motion.

This Court on 12.02.2018 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 12.02.2018, the parties appeared before the learned Judicial Magistrate First Class, Ludhiana and their statements were recorded on 19.03.2018. Respondent No.2 stated that the matter has been compromised by her with all the accused persons out of her own free will, without any pressure, coercion or undue influence. Pendency of petition under Section 13B of the Act has been mentioned. Respondent No.2 stated that she has no objection to the quashing of the abovesaid FIR qua the petitioners. Statement of petitioner No. 1 in respect to the compromise was also recorded.

As per report dated 31.03.2018 received from the learned Judicial Magistrate First Class, Ludhiana, satisfaction is expressed that the compromise between the parties is genuine, arrived at without any pressure or coercion from any corner. 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 subject to strict adherence to the terms and conditions of the settlement by 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. 79 dated 16.09.2017 under Section 498A IPC registered at Police Station Women Cell, District Ludhiana 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.

May 02, 2018

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No