

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

Criminal Misc. No.M- 47035 of 2017 (O&M)

Date of decision : January 23, 2018

Kusum Babuta and another

.....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. M.S. Bedi, Senior Advocate with
Mr. S.S. Brar, Advocate
for the petitioners.

Ms. Monika Jalota, DAG, Punjab.

Mr. Barrister Rubal Garg, Advocate
for respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.0119 dated 02.09.2016 under Sections 406, 498A IPC registered at Police Station Women Cell, Jalandhar and all other consequential proceedings arising therefrom on the basis of a compromise dated 20.11.2017 (Annexure P-2) arrived at between the parties before the Mediation and Conciliation Centre of this Court.

The abovesaid FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband i.e., petitioner No.2. It informed that petition under Section 13B of the Hindu Marriage Act ('the Act'- for short) has been filed by the parties.

Their statements at first motion have been recorded. A sum of ₹3 lakhs out of total settled amount of ₹12.50 lakhs was handed over to respondent No. 2. Today, a Demand draft dated 20.01.2018 drawn on UCO Bank, DMC Hospital, Ludhiana for a sum of ₹3 lakhs has been handed to learned counsel for respondent No. 2 in Court for onward transmission to her in terms of settlement dated 20.11.2017. The petitioners, it is submitted, undertake to hand over rest of the balance amount of ₹6.50 lakhs to respondent No. 2 on 31.05.2018 at the time of recording of the statement of the parties at second motion in the proceedings under Section 13B of the Act. The petitioners undertake to abide by all the terms and conditions of the settlement. The petitioners further undertake to facilitate the quashing of FIR No. 55 dated 01.05.2016 in respect to which CRM-M-815 of 2018 is pending before this Court.

Learned counsel for respondent No. 2 affirms the filing of petition under Section 13B of the Act as above as well as receipt of ₹3 lakhs at that time. It is submitted that respondent No. 2 has no objection to the quashing of the aforementioned FIR against the petitioners subject to strict adherence to the terms and conditions of the settlement by both the petitioners and the undertaking as above.

This Court on 11.12.2017 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/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 11.12.2017, the parties appeared before the learned Judicial Magistrate First Class, Jalandhar and their statements were recorded on 18.12.2017. Respondent No.2 stated that the matter has been amicably resolved by her with both the petitioners out of her own free will, without any pressure, coercion, undue influence and inducement from any quarter. It is stated that the parties will remain bound by the terms and conditions of the compromise. It is further stated that the complainant's brother would give a statement in favour of the accused for cancellation of DDR No. 23 dated 01.04.2016 registered at Police Station Bhargo Camp, Jalandhar. Respondent No. 2 stated that she would suffer a statement for cancellation of complaint No. 938310 dated 17.05.2016 filed by her before the Commissioner of Police, Ludhiana. She would also withdraw the complaint filed before the Forest Department at Dalhousie. All other cases, it is stated, initiated by her had been withdrawn. Respondent No.2 stated that she has no objection to the quashing of the abovesaid FIR qua the petitioners. Statements of the petitioners in respect to the compromise were also recorded.

As per report dated 16.01.2018 received from the learned

Judicial Magistrate First Class, Jalandhar, satisfaction is expressed that the compromise between the parties is genuine, arrived at out of their own free will, without any 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. 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 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.0119 dated 02.09.2016 under Sections 406, 498A IPC registered at Police Station Women Cell, Jalandhar 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.

January 23, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No