

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

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**Criminal Misc. No. M-5415-2018
Date of Decision: May 08, 2018.**

JITENDER AND ANR.

..... PETITIONERS

Versus

STATE OF HARYANA AND ANR

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Neeraj Januha, Advocate for
Ms. Ashima Mor, Advocate,
for the petitioners.

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

Mr. P.S. Sullar, Advocate
for the complainant/respondent No.2.

LISA GILL, J.

Prayer in this petition is for quashing of FIR No.27 dated 01.04.2016 under Sections 34, 376, 420, 498-A, 506 of IPC registered at Police Station Narnaul, District Mahendergarh and all other consequential proceedings arising therefrom on the basis of a compromise arrived at between the parties.

It is contended that the abovesaid FIR was registered at the instance of respondent No.2 due to matrimonial discord with her husband i.e., petitioner No. 2. No offence punishable under Section 376 IPC is made out against petitioner No. 1 as the FIR was lodged, primarily due to matrimonial discord between petitioner No. 2 and respondent No. 2. Moreover, the matter has been amicably resolved between the parties. Petitioner No. 2 and respondent No. 2

have resumed matrimonial ties. Parties wish to live in peace and harmony.

Learned counsel for the petitioners as well as respondent No. 2 reiterate that petitioner No. 2 and respondent No. 2 have resumed matrimonial ties and are living together in the matrimonial home.

This Court on 09.02.2018 directed the parties to appear before learned trial court/Illaqa Magistrate for recording their statements in respect to the above-mentioned compromise. Learned trial court/Illaqa 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 the petitioner is absconding/proclaimed offender 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 09.02.2018, the parties appeared before the learned Additional Sessions Judge, Narnaul and their statements were recorded on 15.03.2018. Respondent No.2 stated that the matter has been amicably resolved with both the petitioners out of her own free will without any pressure, undue influence, coercion, inducement or threat and has no grievance against the petitioners. Respondent No.2 further stated that she has no objection in case the abovesaid FIR against both the accused/petitioners is quashed. Joint statement of the petitioners in respect to the settlement was recorded as well.

As per report dated 21.03.2018 received from the learned Additional Sessions Judge, Narnaul, it is opined that compromise between the parties is genuine and voluntary, arrived at without any coercion, pressure or undue

influence. It is noted by the learned Additional Sessions Judge, Narnaul that the Public Prosecutor stated before the court that Section 376 IPC is an offence against the State but he has not expressed any doubt regarding the genuineness of settlement between the parties. None of the petitioners are reported to be proclaimed offenders. Statements of the parties are appended alongwith the said report.

Learned counsel for respondent No.2 reaffirms and verifies the factual position as above. It is reiterated that respondent No.2 has no objection in case the abovementioned FIR is quashed subject to the petitioners.

Learned counsel for the State, on instructions from ASI Muni Devi, affirms and verifies that the parties are living together in the matrimonial home and expressed no serious objection to the quashing of the FIR in question as well as all consequential proceedings on the basis of a settlement arrived at between the parties.

Normally, this Court would hesitate to interfere in a petition for quashing of FIR under Section 376 IPC on the basis of compromise. However, keeping in view the fact that the present FIR was lodged due to matrimonial discord between respondent No. 2 and petitioner No. 2 and now the parties have settled the matter. Matrimonial ties have been resumed. It is not in dispute that they are living in the matrimonial home in peace and harmony. Therefore, continuance of proceedings would amount to denial of complete justice to 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.27 dated 01.04.2016 under Sections 34, 376, 420, 498-A, 506 of IPC registered at Police Station Narnaul, District Mahendergarh 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 08, 2018
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(LISA GILL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No