

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

**CRM-M-14102 of 2015
DECIDED ON: MAY 01, 2015**

KISHAN & ORS

.....PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Gorakh Nath, Advocate
for the petitioner.

JASPAL SINGH, J.(Oral)

Instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 392 dated June 11, 2013 under Sections 148, 149, 323, 307 & 506 IPC registered at Police Station Nuh, District Mewat, Haryana (Annexure P-1) and also subsequent proceedings emanating therefrom, on the basis of compromise (Annexure P-2) arrived at between petitioners and respondents No.2 to 4.

2. The contention of learned counsel for the petitioner is that after registration of case and during investigation with the intervention of friends, relatives, well wishers and respectables of localities, parties have entered into a compromise in this case and all the disputes and differences between the parties stand resolved completely. Now, parties have decided to bury the hatchet, which would ensure future good relations between the parties.

3. It has further been contended by learned counsel for petitioners

that by now it is fully settled that High Court in exercise of inherent powers can quash the proceedings if it finds that allowing of any such proceedings to continue would be an abuse of process of law or that ends of justice require that the proceedings be quashed. To buttress this contention, learned counsel for petitioners has placed reliance upon pronouncements of Hon'ble Apex Court captioned as **“State of Karnataka vs. L. Muniswami; AIR 1977 SC 1489** as well as **Mrs. Shakuntala Sawhney vs. Mrs. Kaushalya and others; 1980 (1) SCC 1963”**.

4. It has further been submitted by learned counsel for the petitioners that even larger Bench of this Court in the case of **“Kulwinder Singh & Ors vs. State of Punjab and another; 2007 (3) RCR (Criminal) 1052**; while discussing the scope of quashing of prosecution on the basis of compromise, by this Court exercise of powers under Section 482 Cr.P.C. even in non-compoundable offence(s) has held as under:-

“28. The compromise, in 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 Cr.P.C. 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”. Despite which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 Cr.P.C. in the even of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.”

5. In another case titled as “*Yogendra Yadav vs. State of Jharkhand (SC); 2014 (3) RCR (Criminal) 869*”; also observed that though offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings, as it is likely to reflect a harmful effect on the society. But where the Court is convinced that offences are entirely personal in nature and do not affect public peace or tranquility it should not hesitate to quash them.

6. Adverting to the facts of the case in hand, it has been contended by learned counsel for petitioners that since parties have effected a compromise even though an offence falls within purview of Section 307, the same can be allowed to be compounded and FIR deserves to be quashed.

7. This Court has given an anxious thought to the contention of learned counsel for the petitioners and have perused the record available on file.

8. As far as observations made by Hon'ble Apex Court as well this Court, there is no difference in opinion but in the case in hand it appears that though offence complained of under Section 307 IPC; besides commission of other offences under Indian Penal Code. But here it would be appropriate to mention the contents of FIR. A close scrutiny of FIR reveals that during the course of occurrence Pardeep had taken out one revolver and Kishan asked Pardeep that the same be handed over to him so that he would teach complainant party a lesson for taking possession of plot and on the asking of Radhey Shyam accused Kishan fired a straight shot upon Ajruddin who was accompanying the complainant and the said shot was fired with an intention to commit the murder of Ajruddin. The said shot resulted into an injury near

the left ear of Ajruddin. On sustaining of which he fell down. Though complainant made an effort to lift him but on the asking of Anand Parkash, Kishan accused fired shot from his revolver towards the complainant, which struck on the left of his neck. During this period, brother of complainant namely Tayyab reached at the spot and on seeing him Jagdish etc. told Kishan that Tayyab be lynched. Upon which, Kishan fired shot aiming at Tayyab from his revolver with an intention to kill him. But shot did not strike, as it missed the target and Tayyab had a narrow escape. Meanwhile, some more persons attracted to the spot and raised hue and cry. Then accused fled away from the spot.

9. In addition to offences under Sections 148, 149, 323, 307 & 506 IPC, offence under Section 25 of Arms Act 1959 (for short 'Act') is also attracted. But to the utter surprise, neither in the head note of petition nor in the prayer clause, said offence finds mention. Offence under Section 25 of the Act is not of personal nature. Rather, said offence is against society and the State at large, as fire arms were illegally possessed and used in the commission of offence.

10. In view of above-referred facts, this Court does not deem it a fit case to quash the FIR. Accordingly, instant petition is dismissed.

MAY 01, 2015
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(JASPAL SINGH)
JUDGE