

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

CRM No. M-14706 of 2015 (O&M)

Date of Decision:06.05.2015.

Kuldip Singh & another

... Petitioners

Versus

State of Punjab & another

... Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. A.S. Brar, Advocate for the petitioners.

....

TEJINDER SINGH DHINDSA. J.

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.123 dated 25.09.2012, under Sections 307/34 IPC and Sections 25/54/59 of the Arms Act, registered at Police Station Bagha Purana, District Moga.

Counsel for the petitioners submit that a compromise dated 31.03.2015 has been entered into between the parties and since a conscious decision has been taken by the parties to bury the hatchet, no useful purpose would be served in continuing the criminal prosecution lodged by virtue of registration of the impugned FIR.

Counsel for the petitioners has been heard at length and the case paper book has been perused.

FIR in question was registered on 25.09.2012 on the statement of Gurpreet Singh. The alleged occurrence is also stated to be on 25.09.2012. As per version of the complainant, he had been accosted by the present petitioners (accused), while going on a motorcycle and whereupon petitioner No.2, Jaswinder Singh had taken out the key from the motorcycle

being driven by the complainant and had exhorted petitioner No.2 to act by stating that there could not be a better chance. At that stage, petitioner No.1 is alleged to have taken out a country made pistol and had given a shot towards the complainant which had hit on the left side of the chest of the complainant. In the light of such allegations, offences under Sections 307/34 IPC as also under the provisions of the Arms Act were cited.

Counsel appearing for the petitioners has adverted to the documents placed on record at Annexures P-2 (colly) i.e. the report/medical opinion of the Board of Doctors duly constituted for conduct of re-examination of injured-Gurpreet Singh and would vehemently contend that the injuries suffered by the complainant were simple in nature and not dangerous to life. Counsel would even advert to the FSL report in terms of which no conclusive opinion had been rendered as to whether the injury caused is by a projectile fired arm or not. In a nutshell, argument raised by counsel is that the chances of conviction of the petitioner under Section 307 IPC would be remote and as such, it would be a fit case for this Court to intervene in exercise of its powers under Section 482 Cr.P.C. and to quash the FIR.

The question with regard to the exercise of powers under Section 482 Cr.P.C. and the kind of treatment to be accorded to a settlement arrived at between the parties and for quashing of proceedings in pursuance to such settlement came up for examination before the Hon'ble Supreme Court in a recent judgment in **Narinder Singh & others V. State of Punjab & another, 2014 (2) RCR (Criminal) 482**. The Apex Court laid down certain guiding principles for exercise of power under Section 482 Cr.P.C. and clearly held that an offence under Section 307 IPC would fall in

the category of heinous and serious offence and is to be generally treated as crime against the society and not against individual alone. It was, however, observed by the Hon'ble Supreme Court that the High Court would not decline to interfere and to accept a compromise merely because offence under Section 307 IPC has been cited and it would always be open for the High Court to go into the nature of injury sustained, whether the injury was inflicted on a vital part of the body, nature of weapon used etc. and in this regard the medical report in respect of the injuries suffered by the victim could be seen.

It was also categorically held that while exercising power under Section 482 Cr.P.C., the timing of settlement would play a vital role. It was observed that if the settlement/compromise has been arrived at, at the very initial stage i.e. during course of investigation itself, the High Court would be liberal to accept the settlement. Further, if such settlement was arrived at, at the initial stage of trial, even then, it was open for the High Court to recognize and to act upon the settlement.

In the present case, it has gone uncontroverted that the occurrence relates back to 25.09.2012 and the FIR was registered on the same very date. As per the initial MLR of the victim, there is medical corroboration with regard to the injury suffered as per complainant's version. Undoubtedly, the re-examination of the victim at the hands of Board of Doctors may cast a doubt in this regard.

Be that as it may, investigation in the case having been completed, challan was presented and even charges were framed in the year 2013. Trial obviously has proceeded thereafter.

In the totality of circumstances, this Court is constrained to

observe that the timings would not be appropriate to intervene in exercise of its power under Section 482 Cr.P.C. and to express any opinion as regards the chances of conviction of the petitioners under Section 307 IPC. These are matters to be dealt with during the course of trial which has already made sufficient progress.

For the reasons recorded above, this Court declines to act upon the compromise which as per counsel has been entered into between the complainant and the accused i.e. petitioners herein.

Accordingly, the instant petition filed under Section 482 Cr.P.C. seeking quashing of the impugned FIR is dismissed.

It is, however, clarified that the observations contained in this order would not have any bearing on the merits of the trial.

Dismissed.

06.05.2015

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**