

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

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Date of decision: 18.02.2015

CRM M 32794 of 2013

Ginish Sharma and others

..... Petitioners

Versus

State of Punjab and others

.....Respondents

CRM M 32864 of 2013

Karan Manchanda and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. VKSandhir, Advocate
for the petitioners (CRM M 32974 of 2013)
for respondent No. 2 (CRM M 32864 of 2013)

Mr. Amit Arora, Advocate
for the petitioners (CRM M 32864 of 2013)
for respondent No. 2 (CRM M 32974 of 2013)

Mr. Ankur Jain, AAG, Punjab
for respondent State

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

CRM 5407 of 2015 in CRM M 32794 of 2013

Allowed as prayed for. Annexure A-1 (Medico Legal Report of
Karan Manchanda) is taken on record.

Main case

This order shall dispose of aforesaid petitions as these are the off shoot of version and cross version pertaining to FIR No. 153 dated 04.06.2013 for offence punishable under sections 307, 326, 323, 324, 341 read with Section 34 of the Indian Penal Code (in short, 'IPC') registered in Police Station 'A' Division, Amritsar.

Counsels for the petitioners, in both the petitions, would contend that as dispute between the parties has been settled by way of compromise during pendency of investigation and the parties living in neighbourhood have decided to bury the hatchet in the interest of peaceful living, the criminal proceedings may be quashed on the basis of compromise dated 09.09.2013 (Annexure P4). It is further submitted that injuries sustained by complainant Karan Manchanda has led to registration of case under section 307 IPC as well but Karan Manchanda has not suffered any disability due to sustaining of injuries in the occurrence. He made a statement before the Court of Judicial Magistrate conceding factum of compromise and having no objection if the proceedings are put to an end to enable the parties to live without any acrimony. It is further argued that as the case has given rise to version and cross version and four persons from each side have been indicted in the crime, it would be in the interest of justice to give quietus to the criminal proceedings, initiated against each other.

Counsel for the State of Punjab has conceded to the factum that dispute between the parties has been settled by way of compromise in view of the report submitted by the Judicial Magistrate in CRM M 32794 of 2013. However, it is submitted that keeping in view nature of injuries

sustained by complainant Karan Manchanda, it is not a fit case for allowing indulgence of this Court in exercise of inherent jurisdiction under Section 482 of the Code of Criminal Procedure (in short, Cr.P.C.). In support of his contention, he has referred to the latest judgment of Hon'ble the Supreme Court of India ***State of Madhya Pradesh v. Deepak and others, 2014 (4) R.C.R. (Criminal) 202.***

I have heard counsel for the parties and perused the records.

Before advertng to the facts of the case at hand, it is pertinent to mention that Hon'ble the Supreme Court in ***Narinder Singh v. State of Punjab, 2014 (2) R.C.R. (Criminal) 482*** culled out certain principles after a thorough and detailed discussion on various facets and after revisiting the entire controversy on the subject which are reproduced in para 12 of the judgment in *State of Madhya Pradesh v. Deepak and others* case (supra). In the said judgment, FIR No. 171/13 was registered in Police Station Kotwali, District Vidisha (M.P.) for offence punishable under section 307 read with section 34 IPC. After investigation, charge sheet was filed on 06.04.2013 for offence punishable under section 307 IPC read with section 34 thereof. Respondents/accused filed petition before the High Court of Madhya Pradesh, Bench at Gwalior under section 482 Cr.P.C for quashing criminal proceedings arising out of aforesaid FIR on the basis of compromise dated 11.03.2013. The High court accepted the said compromise, quashed the proceedings and the order passed by the High Court was challenged by the State before Hon'ble the Supreme Court of India. Hon'ble the Supreme Court after taking note of the principles culled out in *Narinder Singh's* case (supra) has held in para 14, quoted thus:-

“14) When we apply the ratio/principle laid down in

the said case to the facts of the present case, we find that the injuries inflicted on the complainant were very serious in nature. The accused was armed with sword and had inflicted blows on the forehead, ear, back side of the head as well as on the left arm of the complainant. The complainant was attacked five times with the sword by the accused person out of which two blows were struck on his head. But for the timely arrival of brother of the complainant and another lady named Preeti, who rescued the complainant, the attacks could have continued. In a case like this, the High Court should not have accepted the petition of the accused under Section 482 of the Code.”

As a result, the appeal was allowed and the order passed by the High Court was set aside.

In the case at hand, Karan Manchanda complainant suffered serious injuries with a sharp edged weapon, detailed in his medico legal report (Annexure A1). A reference to the injuries sustained by the victim is pertinent for appreciation of the controversy, quoted herein below:-

“Injuries

1. *An incised stab wound 2.6 cm x 0.7 cm obliquity present on R parietal area of head 13.0 cm above upper margin of pinna.*
2. *An incised wound 1.5 cm x 0.7 cm obliquity present on L parietal area of head 4.5 cm.*
3. *An incised stab wound 0.9 x 0.4 cm obliquity present on R fronto parietal area of head 9.0 cm above upper margin of pinna. In Inj No. 1 to 3 depth not probed. Fresh bleeding present. Both the ends are clean cut.*
4. *An incised wound 04. x 02 cm obliquity present on helix of R Pinna near its tip.*
5. *An incised wound 6.7 x 1.4 curved in the shape*

present on R side of face extending from 0.9 cm below root of nose to R side of bridge of nose upto the R side of upper tip with surrounding swelling.

6. *An incised wound 2.0 x 0.5 cm obliquity present on R shoulder 6.0 cm posterior to shoulder tip.*

7. *An incised wound 3.0 x 0.8 cm curved in shape present on R shoulder 9.5 cm lateral to inj no. 6.*

8. *An incised wound 2.5 x 0.5 cm obliquity present on anterolateral aspect of proximal interphalangeal joint of L middle finger.*

9. *An incised wound 1.8 x 0.5 cm obliquity present on anterolateral aspect of proximal interphalangeal joint of L ring finger.*

10. *A reddish linear abrasion 1.8 x 0.2 cm obliquity present on front of proximal interphalangeal joint of L ring finger.*

11. *A reddish linear abrasion 5.7 x 0.2 cm curved in shape present on lateral aspect of l forearm 9.0 cm proximal to radial styloid process.*

12. *Diffuse swelling with pain present on back of palm of L hand. Tenderness present. Local temperature is raised.*

13. *Movements are painful and restricts.*

Injuries No. 1, 2 and 5 were declared to be grievous in nature on the basis of x-ray report of injuries No. 1 and 2 and CT scan report in respect of injury No. 5.

Perusal of the allegations set up in the FIR would make it evident that the assailants attacked the victim with a premeditated mind as there was some altercation between the complainant and accused Ginish Sharma about 15 days prior to the occurrence in question, in connection whereof the accused party had expressed their grievance to the mother and other family members of the complainant. The complainant sustained

injuries with a sharp edged weapon (iron scissors) at the hands of Ginish Sharma son of Ramesh Kumar Sharma. It has been alleged by the complainant that the occurrence was witnessed by Amarjit Kaur wife of Balwinder Kumar who informed Suman Manchanda, mother of the complainant and Suman Manchanda (mother) and Parminder Manchanda (uncle of the victim) came to the spot and thereafter the accused fled away from the scene of the crime. Had the family members of the victim not arrived for his rescue, it was quite likely that the assailants would have caused more injuries to the victim.

In view of nature of injuries sustained by the victim and sequence of events narrated in the FIR coupled with the factum that the assailants caused injuries to the victim with an intent to wreak vengeance of earlier dispute between the complainant and Ginish Sharma, when examined in the light of observations made in *State of Madhya Pradesh v. Deepak and others* (supra), I do not find it to be a fit case wherein intervention in exercise of jurisdiction under Section 482 Cr.P.C is warranted to quash the criminal proceedings in respect of FIR No. 153 dated 04.06.2013 registered at the behest of Karan Manchanda.

As a natural corollary, the petition (CRM M 32864 of 2013) filed by Karan Manchanda and others for quashing of the cross version is liable to be dismissed.

For the reasons aforesaid, the petitions are ordered to be dismissed.

(Rekha Mittal)
Judge

18.02.2015
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