

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

**C.R.M-M No.34103 of 2012(O&M)
Date of Decision : 19.02.2015**

Gurveer Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. I.S. Brar, Advocate
for the petitioners.

Mr. A.P.S. Gill, A.A.G., Punjab.

None for respondent No.2.

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

AJAY TEWARI, J. (Oral)

On 19.08.2014 the following order was passed:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of the FIR no. 171, dated 23.08.2012 for offence under Sections 307, 34 IPC and 25, 54, 59 of Arms Act, registered at Police Station Civil Lines Bathinda, on the basis of compromise (Annexure P-2).

Adjourned to 27.11.2014.

Meanwhile, parties are directed to be present before the trial Court on 08.09.2014 for recording their statements with regard to compromise. The trial Court is directed to record the statements of both the parties to his satisfaction to know its

genuineness that the statements are not the result of any pressure or coercion in any manner. The trial Court is also directed to send a report along with statements of the parties with regard to validity or otherwise of the compromise effected between the parties and also intimate whether any criminal proceedings are pending against either of the parties or not before the next date of hearing.”

Thereafter, the report of the Chief Judicial Magistrate, Bathinda dated 16.09.2014 has been received whereby he has mentioned that the parties had appeared before him and had attested to the fact that a compromise has indeed taken place between them and that the compromise has been executed voluntarily and without any pressure.

The Hon'ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another** reported as (2014) 6 SCC 466 has discussed in detail the inherent powers of High Court in quashing a criminal proceeding or FIR or complaint where the parties have entered into compromise in an offence under Section 307 IPC and has held as under:-

“Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is

inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as

to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

Learned Assistant Advocate General has argued that this is a case where Section 307 IPC was invoked.

I however find from the record that in the present case the injury was below the knee and it is therefore doubtful that Section 307 IPC could be invoked at all.

In view of the above judicial pronouncement, I am of the considered opinion that continuation of criminal proceedings between the parties would be an abuse of the process of law and the present compromise is for their benefit and will bring peace and harmony between them.

Consequently, this petition is allowed and the above said FIR and all consequential proceedings arising therefrom are quashed qua petitioners.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

February 19, 2015

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