

In the High Court of Punjab and Haryana at Chandigarh

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CRM-M-36723-2014

Date of decision: 5.8.2015

HARJEET

.....Petitioner

Versus

STATE OF HARYANA ETC

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.M.S.Tewatia, Advocate,
for the petitioner.

Mr.Arun Luthra, AAG, Haryana.

- 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?*

RAJ MOHAN SINGH, J.

This petition has been filed for quashing of FIR No. 604 dated 23.11.2013 under Sections 323, 324, 506 IPC and Section 307 IPC (added later on) registered at Police Station Sadar Palwal, District Palwal and subsequent proceedings arising therefrom on the basis of compromise.

As per allegation, petitioner became angry and started abusing the complainant, when the complainant refused to give his mobile phone to him. On being objected, petitioner gave two screwdriver blows in the left side of chest of the complainant and gave one screwdriver blow on the right hand.

Complainant was belabored by kick and fist blows in fallen

condition.

The Hon'ble Apex Court in Narinder Singh and others vs. State of Punjab and another 2014 (2) RCR (Crl.) 482 issued certain guidelines in the context of quashing of FIR under Section 307 IPC on the basis of compromise.

Para 31 of the judgment reads as under:-

“ In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I) Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

(II) When the parties have reached the settlement and

on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

(III) Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among

themselves.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

(VI) 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.

(VII) 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 State counsel, on the other hand, on

instructions from ASI Rashid Khan submits that the complainant received screw driver blows in the chest. The injury has been declared to be dangerous to life as per opinion of the doctor. Trial has already reached the stage of defence evidence as all the prosecution witnesses have been examined.

The Hon'ble Apex Court in **Narinder Singh's case (supra)** has circulated guidelines to the effect that where the prosecution evidence is almost complete or the trial has reached the stage of arguments then normally, High Court should refrain from exercising its power under Section 482 Cr.P.C. In such a situation, trial Court would be in a position to decide the case finally on merits and come to conclusion as to whether offence under Section 307 IPC is made out or not.

In view of aforesaid, no ground is made out to quash the FIR on the basis of compromise even though this Court has directed the parties to appear before the trial Court for recording their statements.

Resultantly, there is no ground to quash the FIR on the basis of compromise.

Accordingly, this petition is dismissed.

(RAJ MOHAN SINGH)
JUDGE

August 05, 2015
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