

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

Date of Decision: 23.09.2015

1. CRM-M No.9922 of 2015 (O&M)

JASWANT SINGH @ GOLA AND OTHERS

.....Petitioners

Vs

STATE OF HARYANA AND OTHERS

....Respondents

2. CRM-M No.9930 of 2015 (O&M)

RANJIT SINGH AND OTHERS

.....Petitioners

Vs

STATE OF HARYANA AND OTHERS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Saurabh Bhardwaj, Advocate
for the petitioners in CRM No.9922 of 2015 &
for respondents No.2 to 6 in CRM No.9930 of 2015.

Mr. Munish Kumar Garg, Advocate
for the petitioners in CRM-M No.9930 of 2015 &
for respondents No.2 to 4 in CRM-M No.9922 of 2015.

Mr. Arun Luthra, A.A.G., 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.

[1]. Vide this common order CRM-M No.9922 of 2015 and CRM-M No.9930 of 2015 are being disposed of. Facts are being taken from CRM-M No.9922 of 2015.

[2]. Petitioners seek quashing of FIR No.108 dated 10.11.2010 along with its cross-version recorded vide DDR No.22 dated 13.11.2010, registered under Sections 307, 323, 325, 148, 149, 506 IPC at P.S. Babain, District Kurukshetra.

[3]. FIR was registered by Jaswant Singh-petitioner No.1 with the following allegations:-

Jaswant Singh @ Gola son of Mahinder Singh caste Jat Sikh aged 45 years stated that he is the resident of village Mandokra, Police Station Babain, District Kurukshetra and doing work of agriculture. His wife Jasbir Kaur is the present Sarpanch of the village. Baba Surinder Singh brother Randhir contested the panchayat election against them. Where Randir Singh lost and his wife got elected as Sarpanch. They were having grudge in their minds before this and many times they quarreled with them. The matter was compromised in the Panchayat. Even then they were having grudge in their minds. Due to this grudge they threw the garbage in front of small gate of his house. He told them to remove that garbage. Today at 8:30 AM, Surinder Singh S/o Shiv Dayal Singh, Randhir Singh, Jaswinder Singh, Jasbir Singh son of Shiv Dayal, Rajwant Singh, Harvinder Singh, Harbhajan Singh, Ranjeet Singh sons of Gurdayal and Gurdayal Singh S/o Kartar Singh, Jarnail Singh S/o Banchan Singh, Gurmeet Singh S/o Balwant Singh alongwith Pinda R/o Dera Mandokra in connivance with each other entered into his house with sticks-rod, Gandasa-Bhale-rod in their hands and started hitting them. Gurmeet Singh hit his sister-in-law Karamjeet Kaur W/o Hakam Singh with the stick in his hand, Rajwant Singh with the stick in his hand giving injury to Karamjeet, Jaswinder Singh hit Karamjit with the rod in his hand. Baba

Surinder Singh with his Barcha gave injury on his right arm and Harbhajan Singh hit on his head with the rod in his hand, Ranjeet Singh with the stick in his hand gave many injuries on his back and body. Harinder Singh with the stick having in his hand hit him on the back and legs. His sister-in-law Machinder Kaur W/o Darshan Singh was beaten by Jasbir Singh with the Stick in his hand, Jarnail singh with the rod in his his hand and Baba Surinder Singh gave injuries with barcha. His brother Hakam Singh was given injuries by Randhir Singh & Pinda with their Danda-Gandasi. His mother Phool Kaur also received injuries. They destroyed the inverter, battery, bed, TV furniture, windows and doors, electricity meter in the house and taken away cash of Rs. 50,000/- and motorcycle Bullet No. HR-07K-4264. He will produce his and her family members' medical certificate. If his brother-in-law Amarjit Singh and sister Karamjeet Kaur had not rescued from them they would have given more injuries to us. After the fight, the accused with their respective weapons left the spot and while going they have given threat to them that today he is left if again found he will be killed. The action be taken against the accused.

On the basis of his statement formal FIR was recorded.

[4]. DDR No.22 dated 13.11.2010 was recorded at the instance of Ranjit Singh @ Ranjeet Singh-respondent No.2. Contents of the DDR are as under:-

Ranjit Singh S/o Gurdyal Singh caste Jat resident of village Mandokra aged 34 years stated that he is the resident of above noted address and doing the work of transport at Babain. They are four brothers. The name of the eldest brother is Rajwant Singh, who work as an

agriculturist, his younger one named Ravinder Singh who also work as agriculturist and the youngest brother name is Harbhajan Singh who is also an agriculturist. All brothers are married and living separately. On 10.11.2010 they alongwith many relatives were joined together at the house of my his brother Harbhajan Singh on the occasion of birthday celebration of his son and having Akhand Path in his house. His first cousin Randir Singh S/o Dayal Singh contested the panchayat election for Sarpanch against Smt. Jasbir Kaur W/o Jaswant Singh in which Randir Singh lost the election. On 10.11.2010 at about 8:30 AM Randir Singh come to seek blessing. When Jasbir Kaur saw Randir Singh, she told her husband Jawant Singh that Randir Singh has come in the house of Gurdyal Singh. Gurdyal Singh & Randir Singh be taught a lesson to fight election and helping them and they be killed. Jasbir Kaur with axe in her hand, Jaswant Singh with iron rod and after seeing them Karamjeet Kaur W/o Hakam Singh, Hakam Singh S/o Mohinder Singh, Amarjit Singh brother-in-law of Hakam Singh and sister of Hakam Singh namely Bala came there with sticks and Gandasi in their hands. Jaswant Singh hit his father on the right temple with the iron pipe in his hand. Amarjit Singh with the iron road hit him 3-4 times. His mother Gurnam Kaur was hit on chest and head by Karamjit Kaur and his mother was given 3-4 stick blows. Jaswant Singh with the iron road in his hand hit on the face of his mother due to which her one teeth was broken. Machinder Kaur W/o Darshan Singh, Hakam Singh, Mahinder Singh, Siyoram, Ram Kumar started throwing stones in his house. The tent of ceremony was there. The stones hit on Granth Sahib and Pathi Harjinder Singh. Above named Jasbir Kaur, Jaswant Singh, Karamjit Kaur were hit due to this Didar Singh & kali Ram started throwing

stones outside from our house. Those stones were hit on motorcycle and Machinder Kaur. His parents received many injuries. They were taken to Government Hospital, Babain by him and his uncle in their car. The government hospital gave first aid to his father but the blood did not stop. On this the doctor referred his father and mother to LNJP, Kurukshetra and told them to immediately shift them but due to the non-availability of ambulance they were shifted in the LNJP Hospital, Kurukshetra in our private vehicle. At around 11 AM the doctors due to their condition gave them blood but their condition become critical. They were referred to GMC, Chandigarh from LNJP, Kurukshetra. He along with his family immediately shifted them to Sector 32 Hospital, Chandigarh. Till dated 11.11.2010 at around 11 AM they were treated at Sector 32 Hospital, Chandigarh. Doctor discharged his mother but his father was referred to PGI, Chandigarh due to serious injury in his head. His father is admitted in PGI, Chandigarh and his mother is at home. They were not in a position to make statement. Condition of his father is critical.

On the basis of his statement forma FIR was recorded.

[5]. Learned counsel for the petitioners submits that complainant is the first cousin of the injured. The incident took place on account of family dispute. Learned counsel further submits that version recorded in FIR is only for the offences under Sections 148, 149, 323, 452, 324, 427, 506, 325 IPC, whereas in cross-version offences alleged are under Sections 307, 323, 325, 148, 149, 506 IPC.

[6]. Learned counsel for the petitioners in cross-case states that

Jaswant Singh is the first cousin of complainant Ranjit Singh @ Ranjeet Singh and the injured Gurdyal Singh is the real uncle and Gurnam Kaur is the real aunt of Jaswant Singh. The case pertains to family dispute arising out of election of Sarpanch in the village. The version of the FIR is that the occurrence took place in the house of Jaswant Singh, whereas as per cross-version place of occurrence is in the family function outside the house of respondent No.2-Ranjit Singh @ Ranjeet Singh. Iron rod was used in causing injuries to Gurdyal Singh and Gurnam Kaur.

[7]. The opinion of Doctor at the first instance shows that no offence under Section 307 IPC was made out. It was added later on, on the basis of injuries suffered by Gurdyal Singh. The report given by Primary Health Centre, Babain dated 27.06.2011 is to the following effect

“As per MLR No.KD/148/BBN/10 dated 20 Nov 2010, I received the opinion for all the three injuries. Now Neurosurgeon report from PGI, Chandigarh is available, on the basis of PGI, Chandigarh Neurosurgeon report there was fracture on Right Temporal Bone with underline contusion and injury (No.1 & 2) were declared grievous in nature.”

[8]. Learned counsel for the petitioners states that on the basis of aforesaid, challan was filed by the Police deleting offence under Section 307 IPC and offence under Section 325 IPC was added in the present case. Thereafter application was moved by the Police on 27.06.2011 for deleting opinion of Doctor. Learned counsel for the

petitioners relies upon statement of Dr. Krishan Dutt, MO, CHC, Mathana, District Kurukshetra, who has stated in the following manner:-

“It is correct that all the medical record of PGI there was no mention the fact that the injury was dangerous to life rather it was grievous in nature in the case summary of PGI Chandigarh. It is also correct that no operative intervention was done only conservative treatment was given. It is correct that prior to give my opinion regarding the nature of injury of Gurdial Singh I sought the expert opinion as per MLR from different specialist who treated the injured Gurdial Singh. Those experts also gave opinion regarding the nature of injury as grievous in nature. It is correct that possibility of such type of injury cannot be ruled out if one fall on the ground head vise forcefully from high height as the bone of skull is so hard and compact. It is correct that the bones of elderly person around 80 years are become weak due to age related osteoporosis. It is correct that in none of my opinions I have given the opinion about injuries No.1 and 2 being dangerous to life. When my opinion was sought by the police, I had not stated that the dangerous to life is one variety of grievous injury. Today I have deposed so on the basis of medical literature.”

[9]. However, preceding statement of the Doctor was that there was fracture on right temporal bone with underline contusion and injuries No.1 and 2 were declared grievous in nature and injury which is dangerous to life is one variety of grievous injury. In view of both aspects in one statement, evidentiary value of the statement of Doctor can only be looked into by trial Court at the time of

appreciation of evidence.

[10]. On the strength of aforesaid material, learned counsel for the petitioners in cross-version argues that cross-version does not attract culpability of offence under Section 307 IPC and the case was only involving grievous injury which has been established by the Doctor while appearing as PW-17. The version recorded in the FIR does not involve any complicity in terms of Section 307 IPC. In cross-version the complicity in terms of Section 307 IPC remains to be debatable in view of statement of Dr. Krishan Dutt- PW-17, who has deposed that in none of his opinions, he has given any opinion about injuries No.1 and 2 being dangerous to life.

[11]. The extent and sweep of inherent powers of the High Court under Section 482 Cr.P.C., for quashing criminal prosecution on merits as well as on the basis of compromise between the accused and the victim remained question of interpretation since long. The Hon'ble Apex Court after due consideration of judgments in **Madhu Limaye vs. State of Maharashtra, AIR 1978 Supreme Court 47,** **Bhajan Lal vs. State of Haryana and others, AIR 1992 Supreme Court 604** and **State of Karnataka vs. L. Muniswamy and others, AIR 1977 Supreme Court 1489,** has summed up the controversy in **State through Special Cell, New Delhi vs. Navjot Sandhu @ Afshan Guru and others, 2003(2) RCR (Crl.) 860 (SC).** The legal position summed up in the said judgment is in the following manner:-

“Thus, the law is that Article 227 of the

Constitution of India gives the High Court the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State Legislature. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the law. The powers under Article 227 are wide and can be used, to meet the ends of justice. They can be used to interfere even with an interlocutory order. However, the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High Court, such a source of power, when the High Court itself does not in terms purport to exercise any such discretionary power. It is settled law that this power of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate courts and tribunals within the bound of their authority and not to correct mere errors. Further, where the statute bans the exercise of revisional powers it would require very exceptional circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory law. It is settled law that the jurisdiction under Article 227 could not be exercised "as the cloak of an appeal in disguise.

Section 482 of the Criminal Procedure Code starts with the words "Nothing in this Code". Thus the inherent jurisdiction of the High Court under Section 482 of the Criminal Procedure Code can be exercised even when there is a bar under Section 397 or some other provisions of the Criminal Procedure Code. However, as is set out in Satya Narayan Sharma's case (supra) this power cannot be exercised if there is a statutory bar in some other

enactment. If the order assailed is purely of an interlocutory character, which could be corrected in exercise of revisional powers or appellate powers the High Court must refuse to exercise its inherent power. The inherent power is to be used only in cases where there is an abuse of the process of the Court or where interference is absolutely necessary for securing the ends of justice. The inherent power must be exercised very sparingly as cases which require interference would be few and far between. The most common case where inherent jurisdiction is generally exercised is where criminal proceedings are required to be quashed because they are initiated illegally, vexatiously or without jurisdiction. Most of the cases set out herein above fall in this category. It must be remembered that the inherent power is not to be resorted to if there is a specific provision in the Code or any other enactment for redress of the grievance of the aggrieved party. This power should not be exercised against an express bar of law engrafted in any other provision of the Criminal Procedure Code. This power cannot be exercised as against an express bar in some other enactment.”

[12]. Full Bench of this Court in **Kulwinder Singh and others vs. State of Punjab and another, 2007(3) RCR (Crl.) 1052**

considered the scope of powers under Section 482 Cr.P.C., to hold that High Court has powers to quash prosecution in order to achieve ends of justice and to prevent abuse of process of law. These powers are not limited to matrimonial disputes alone, rather these powers are unlimited. However these powers are to be exercised very sparingly and with utmost care and caution. There is no statutory bar which can affect the inherent powers of High Court

under Section 482 Cr.P.C. The powers under Section 482 Cr.P.C., is to be exercised *Ex-Debitia, justitia* to prevent abuse of process of Court.

[13]. In **Bhajan Lal vs. State of Haryana and others, AIR 1992 Supreme Court 604** powers of High Court under Section 482 Cr.P.C., were considered by the Hon'ble Apex Court within certain parameters and guidelines. It was held that such powers should be exercised either to prevent abuse of process of any Court or otherwise to secure the ends of justice. Possibly there cannot be any defined and channelised mechanism to formalise exhaustive list of cases wherein such powers should be exercised. Still the Hon'ble Apex Court categorised the cases by way of illustration wherein such powers could be exercised on both the aforesaid analogies of preventing abuse of process of law and to secure ends of justice.

“1. Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence

and make out a case against the accused.

4. *Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

5. *Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

6. *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/ or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

7. *Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

[14]. In exercise of inherent powers under Section 482 Cr.P.C., criminal proceedings are not to be quashed where the offence is heinous in nature. Proceedings can only be quashed where the issue is overwhelmingly and predominantly of civil profile arising out of commercial, financial, mercantile and civil or matrimonial nature. In a way dispute may involve wrong which is basically private or personal in nature and the parties have redressed the same by entering into

compromise.

In **Gian Singh vs. State of Punjab and another 2012(4) RCR (CrI.) 543**, the Hon'ble Supreme Court considered necessary imports of all previous precedents and observed in the following manner:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal

proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

[15]. The Hon'ble Supreme Court further endorsed the view of

Gian Singh vs. State of Punjab and another 2012(4) RCR (Crl.)

543, in Dimpey Gujraj vs. Union Territory through Administrator,

U.T., Chandigarh and others, 2012(6) CTC 829 in a case arising

out of offence under Section 307 IPC. The Hon'ble Apex Court while

relying upon **Gian Singh's case** (supra) held that the parties can be allowed to compound the offences even though the offences are of non-compoundable nature and are not heinous offences as continuation of such criminal proceedings would amount to abuse of process of law. The criteria as highlighted by the Hon'ble Apex Court is that offences of personal nature which are not serious in nature could be compounded even though the offence is non-compoundable in nature in the light of observations made in **Gian Singh's case** (supra). The Hon'ble Apex Court proceeded to quash the criminal proceedings on the ground that the continuation thereof would tantamount to abuse of process of law as the offences were not heinous in nature showing any extreme depravity nor against the society. The offence being personal in nature was allowed to be compounded in order to bring peace, amity and harmony between the parties. In the circumstances of the case, the offence under Section 307 IPC was allowed to be compounded and the FIR along with other consequential proceedings were quashed.

[16]. The quashing of criminal proceedings in an offence under Section 307 IPC came up for detailed discussion before the Hon'ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another, 2014(2) RCR (Crl.) 482**. After due consideration the Hon'ble Apex Court formalised the issue of compounding of offences under Section 307 IPC to say that it is an offence against society and is non-compoundable, but in certain cases the High Court would be guided to give adequate treatment to the settlement between the

parties in exercise of inherent powers under Section 482 Cr.P.C.

Following principles were laid down in para 31 of the judgment:-

“31. 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.”

[17]. In **State of Madhya Pradesh vs. Deepak and others, 2014(4) RCR (CrI.) 202**, the Hon'ble Apex Court has again reiterated the offence under Section 307 IPC being an offence against society and cannot be treated to be private dispute between the parties,

however guidelines laid down in **Narinder Singh and others vs. State of Punjab and others, 2014(2) RCR (Crl.) 482** were reiterated after referring to **Gian Singh vs. State of Punjab and another, 2012(4) RCR (Crl.) 543** and other precedents on the point. In pith and substance the view expressed in **Narinder Singh and others'** case (supra) has to be followed, keeping in view the facts and circumstances of each case.

[18]. In view of medical opinion given by Dr. Krishan Dutt-PW-17, complicity in terms of Section 307 IPC remains to be a debatable issue and if this cross-version is read in conjunction with version recorded in FIR then in that case it can be found that family members want peace and harmony between them so as to live in congenial atmosphere and to maintain public tranquility in future. The compromise in question would go in a long way to serve as everlasting tool in their hands for maintaining good relations *inter se* between them.

[19]. Though one of the parameters enshrined in **Narinder Singh and others'** case (supra) is that when the case is at the stage of arguments/fag end, High Court should refrain from exercising powers under Section 482 Cr.P.C., for quashing the prosecution under Section 307 IPC on the basis of compromise. The issue of complicity in terms of Section 307 IPC would be appreciated by the trial Court at the time of decision of the case, therefore, condition No.7 refrains the High Court from exercising powers under Section 482 Cr.P.C.

[20]. In view of aforesaid, this Court is not inclined to interfere in quashing the prosecution under Section 307 IPC on the basis of compromise. Resultantly version and cross-version are to be decided simultaneously by the trial Court. Therefore, no interference is called for. Consequently, both the petitions stand dismissed.

September 23, 2015
Atik

(RAJ MOHAN SINGH)
JUDGE