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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: March 18, 2015

+ **CRL.M.C. 2827/2014 & CrI.M.A.9689/2014**

SALEEM & ORS Petitioners

Through: Mr. Tarique Siddiqui and Mr.
Rakshan Ahmed, Advocates

versus

STATE & ORSRespondents

Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for respondent-
State with SI Vishwender Singh
Respondents No.2 & 3 in person

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Quashing of FIR No.179/2012 under Sections 326/307/201/34 of IPC and Sections 25 & 27 of the *Arms Act* registered at P.S. Seema Puri, Delhi is sought in this petition on the basis of affidavit of respondent No.2 after filing of the charge-sheet.

At the hearing, learned counsel for petitioners had placed on record the copy of the deposition of respondent No.2 herein and the deposition of other witnesses to submit that in view of the Compromise Deed of 14th November, 2013 (*Annexure P-6*) between the parties, continuance of proceedings arising out of the FIR in question is required to be put to an

end as no useful purpose would be served in the continuation of these proceedings. To submit so, reliance has been placed upon decision of a co-ordinate Bench of this Court in *Tasvir Singh v. State of Delhi* 2014 [1] JCC 310. Further reliance has been placed by learned counsel for petitioners upon decisions in *B.S. Joshi & Ors. v. State of Haryana* AIR 2003 SC 1386, *Madan Mohan Abbot v. State of Punjab* (2008) 4 SCC 582, *Gian Singh v. State of Punjab* (2012) 10 SCC 303, *Dimpey Gujral & Ors. v. Union Territory* AIR 2013 SC 518, *Daulat Zia v. Govt. of NCT of Delhi* 1998 (46) DRJ (DB), *Vicky Malhotra v. State of Delhi* 2007 (93) DRJ 22, *Jaibir & Ors. v. State* 142 (2007) DLT 141, *Karan Gandhi v. State of NCT* 2007 (99) DRJ 618 and *Basara & Ors. v. State & Anr.* 2007 (98) DRJ 381 in support of above submissions.

It needs no reiteration that inherent extraordinary jurisdiction of this Court under Section 482 of Cr.P.C. is to be exercised with circumspection and sparingly. On this aspect, the pertinent observations of the Apex Court in *State of Orissa v. Ujjal Kumar Burdhan* (2012) 4 SCC 547 are as under: -

“It is true that the inherent powers vested in the High Court under Section 482 of the Code are very wide. Nevertheless, inherent powers do not confer arbitrary jurisdiction on the High Court to act according to whims or caprice. This extraordinary power has to be exercised sparingly with circumspection and as far as possible, for extraordinary cases, where allegations in the complaint or the first information report, taken on its face value and accepted in their entirety do not constitute the offence alleged. It needs little emphasis that unless a case of gross abuse of power is made out against those in charge of investigation, the High Court should be loath to interfere at the early/premature stage of investigation.”

Apex Court in *Gian Singh Vs. State of Punjab & Anr.* (2012) 10 SCC 303 has reiterated that in serious offences, criminal proceedings ought not to be quashed. The pertinent observations of Apex Court in *Gian Singh (supra)* are reads as under:-

“58. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all.”

While reiterating the aforesaid dictum in *Gian Singh (supra)*, Apex Court in a recent judgment in *Narinder Singh v. State of Punjab* (2014) 6 SCC 466 has held that for quashing the criminal proceedings, the stage of the proceedings is crucial and if the court finds that the proceedings are at initial stage, then the proceedings can be quashed. The pertinent observations of the Apex Court in *Narinder Singh (supra)* are as under:-

“29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are 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 latter 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.

29.7. 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 to 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.”

In the instant case, upon bare perusal of the charge-sheet of this case, the material on record, status report and the decisions cited, I find that the decisions relied upon by petitioners are of no avail as the facts of the decisions relied upon are distinct from the case in hand. Even otherwise, I find that petitioners are facing trial for serious offences and the deposition of the material witnesses has been already recorded. The evidentiary value of the evidence already recorded is not required to be commented upon amidst trial.

In the facts and circumstances of this case, I find that it is not a fit case for exercise of inherent extraordinary jurisdiction of this Court under Section 482 of Cr.P.C. to quash the criminal proceedings amidst trial.

This petition and the application are disposed of while not commenting upon merits of this case lest it may prejudice petitioners before trial court.

(SUNIL GAUR)
JUDGE

MARCH 18, 2015

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