

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

+ **CRL.M.C. 5167/2014**

Date of Decision : March 28th, 2016

BAL KRISHAN & ORS

..... Petitioner

Through

Mr.C.S. Rathore, Adv.

versus

STATE & ORS

..... Respondents

Through

Mr.Amit Chadha, APP for the State
with Mr.Sunil Kumar, SI, PS Geeta
Colony.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present petition under Section 482 Cr.P.C. read with Section 483 Cr.P.C. has been filed by the petitioners, namely, Sh.Bal Kishan, Sh.Bhanwar Singh @ Bhubneshwar, Sh.Narender Kumar, Sh.Rajesh Kumar, Ms.Bhanu Priya, Ms.Pooja and Ms.Sunita @ Chanchal for quashing of FIR No.382/2007 dated 29.10.2007, under Sections 147/148/149/323/307/325/34 IPC registered at Police Station Geeta Colony on the basis of the settlement arrived at between the petitioners and respondent nos.2 to 5, namely, Roshan Devi, Sh.Ravi, Sh.Vipin and Sh.Sachin, respectively.

2. The factual matrix of the present case is that the FIR in question was lodged by the complainant, namely, Sh. Rohtash Singh on the allegation that on 29.10.2007, on account of Karvachauth, bangle sellers were sitting outside the complainant's plot from whom the

complainant had to take Rs.450/- but Balkishan-petitioner no.1 who is the son of the complainant's uncle took the same from them and went away. At about 12:15 midnight, when the complainant inquired from the petitioner no.1 as to why he had taken the said amount, Balkishan, his son Narender and Rajesh and the son of his brother-in-law Bhanwar Singh and his daughter Bhanu, Chanchal and Pooja started fighting with the complainant, upon which the nephew of the complainant i.e. Sachin, complainant's wife Roshan Devi, his sister-in-law Bela Devi and his son Ravi came out upon which the scuffle escalated. Then, Balkishan-petitioner no.1 brought a sword from his house and gave it to Rajesh-petitioner no.4 and he attacked Sachin-respondent no.5 with it and then petitioner no.1 gave the knife blow into the stomach of the complainant. Simultaneously, the Narinder-petitioner no.3 hit the complainant and broke his arm. Whereas, the Chanchal, Pooja and Bhanu hit the respondent no.2-Roshan Devi on her head with brick, rodi and dandas. Bhanwar Singh caused injuries on the head of the complainant.

3. Later on, the complainant expired on 12.05.2010 and he is survived by his legal heirs namely, respondent nos. 2 to 4 who are also injured persons. A cross case bearing case FIR No.381/2007 dated 29.10.2007 under Sections 147/148/149/307/323 IPC and Sections 24/54/59 Arms Act, Police Station Geeta Colony was registered on account of the same incident against Bhupinder Kumar @ Lala, Shiv Raj, Rohtash (complainant-herein), Sachin, Vipin, Ravi, Umesh Kumar and Smt. Bela Devi. Later on, respondent nos.2 to 5 and the petitioners mutually settled their past disputes, differences etc.

peacefully against each other.

4. The State has filed a status report on record. As per the status report, after completion of the investigation, charge sheet was filed in the matter on 06.12.2007 and charges were framed under Sections 147/148/304 r/w 149 IPC. Copy of the order on charge framed by the Ld. ASJ, Karkardooma Courts, Delhi dated 12.07.2011 has been placed on record whereby the petitioners were charged under Sections 147/148/149/307 IPC.

5. MLC has been placed on record as per which, Roshan Devi suffered '*simple*' injuries in the incident which were caused by a blunt object and she suffered injuries on her right frontal region and abrasion of her left knee; Rohtash-complainant suffered '*grievous*' injuries in the incident which were caused by a sharp edged weapon and blunt object and he suffered stab wound and other injuries; Sachin suffered '*simple*' injuries in the incident which were caused by a sharp edged weapon and blunt object and he suffered stab wound and certain bruises; and Ravi suffered '*simple*' injuries in the incident which were caused by a blunt object and suffered abrasions on his knees, left shoulder and on the right ankle joint.

6. The counsel of the petitioners relied upon various judgments such as "*Bishan Singh v. State & Anr., 130 (2006) DLT 210*" in which the Court observed that even non-compoundable offences can be settled and FIR can be quashed. Further, the counsel relied upon judgment in the case of *B.S. Joshi and others v. State of Haryana and another, 2003 (4) SCC 675* in which the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C.

would not apply to such offences which are not compoundable, it did not limit or affect the powers of the High Court under Section 482 Cr.P.C. On the same grounds, the counsel of the petitioner relied upon in the cases of *Nikhil Merchant v. CBI & Anr.*, (2008) 9 SCC 677; *Dimple Gujral & Ors. v. Union Territory through Administrator, U.T. Chandigarh & Ors.*, 2012 AIR SCW 5333.

7. I have heard the counsel for the parties and perused the record.

8. In *Gian Singh v. State of Punjab*, (2013) 10 SCC 303, the Hon'ble Supreme Court observed that heinous and serious offences of mental depravity, murder, rape, dacoity etc. or under special statutes like Prevention of Corruption Act or offences committed by public servants while working in their official capacity, cannot be quashed even though victim or victims family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on the society. On similar point, reliance can be placed on *Narinder Singh v. State of Punjab* (2014) 6 SCC 466 in which it was further observed that 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.

Further in *State of Rajasthan v. Shambhu Kewat* (2014) 4 SCC 149 it was observed as under:

“15. We are not prepared to say that the crime alleged to have been committed by the accused persons was a crime against an individual, on the other hand it was a crime against the society

at large. Criminal law is designed as a mechanism for achieving social control and its purpose is the regulation of conduct and activities within the society. Why Section 307 IPC is held to be non-compoundable, is because the Code has identified which conduct should be brought within the ambit of non-compoundable offences. Such provisions are not meant just to protect the individual but the society as a whole. The High Court was not right in thinking that it was only an injury to the person and since the accused persons (sic victims) had received the monetary compensation and settled the matter, the crime as against them was wiped off. Criminal justice system has a larger objective to achieve, that is, safety and protection of the people at large and it would be a lesson not only to the offender, but to the individuals at large so that such crimes would not be committed by anyone and money would not be a substitute for the crime committed against the society. Taking a lenient view on a serious offence like the present, will leave a wrong impression about the criminal justice system and will encourage further criminal acts, which will endanger the peaceful coexistence and welfare of the society at large.”

9. This Court further observes that the FIR in the present case has been registered under Sections 147/148/149/323/307/325/34 IPC which clearly are offences against the society at large and not private in nature. Perusal of the MLC also establishes that all the victims have suffered injuries. As observed in the aforesaid cases i.e. *Narinder Singh (supra)*, *Shambhu Kewat (supra)* and *Gian Singh (supra)*,

offences which are heinous and against the society shall not be compounded having regard to nature of injuries and the magnitude of impact even though the victims and the offenders have compromised their matter and seek the quashing of the FIR in the case. Applying the ratio/principle laid down in the said cases to the facts of the present case, this Court finds that the injuries inflicted on the complainant and other victims were very serious in nature. The accused persons were armed with sword and knife and gave the knife blow in the stomach of the complainant and also hit the complainant on his head and broke his arm. Moreover, the accused persons also inflicted blows on the heads of the other injured persons.

10. In the facts and circumstances of this case as discussed above, this Court does not find it a fit case to quash the FIR No.382/2007 dated 29.10.2007, under Sections 147/148/149/323/307/325/34 IPC registered at Police Station Geeta Colony. Same is hereby dismissed.

12. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

MARCH 28, 2016
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