

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

+ **CRL.M.C. 5168/2014**

Date of Decision : March 28th, 2016

BHUPINDER KUMAR @ LALA & ORS Petitioners

Through **Mr.Pramod Kumar, Adv.**

versus

STATE (GOVT OF NCT OF DELHI) & ORS Respondents

Through **Mr.K.K. Ghai, APP for the State with
SI Sunil Kumar, 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.Bhupinder Kumar @ Lala, Sh.Sachin, Sh.Vipin and Sh.Ravi Chauhan for quashing of FIR No.381/2007 dated 29.10.2007, under Sections 147/148/149/307/323 IPC and Sections 25/54/59 of the Arms Act registered at Police Station Geeta Colony the basis of the settlement arrived at between the petitioners and respondent nos.2 to 5, namely, Sh.Bal Kishan, Ms.Bhanu Priya, Sh.Narender and Ms.Pooja, respectively.

2. The factual matrix of the present case is that the FIR in question was lodged by the complainant, namely, Sh. Bal Kishan on the allegation that on 29.10.2007, at around 12.15 in the night, while the son of the complainant namely, Narender was closing the shop, Rohtash, who is the son of the uncle of the complainant along with

Vipin, Ravi and Sachin started abusing Narender. The complainant came there and found that Rohtash was having a knife in his hand, Sachin had a sword and Ravi and Vipin were having dandas and lathis in their hands. Bela Devi was also standing there and was extending threats. The accused persons then attacked Narender with the sword and the knife and they threw the goods of the shop and attacked the complainant too. Umesh, Bhupinder and Shivraj caught hold of the complainant and Rohtash gave the knife blow in the abdomen of the complainant whereas, Sachin attacked him with the sword and injured his left hand. Whereupon, the family members of the complainant also came there and they were also attacked upon.

3. Later on, Rohtash expired on 12.05.2010. A cross case bearing case FIR No.382/2007 dated 29.10.2007 under Sections 147/148/149/307/323/325/34 IPC, Police Station Geeta Colony was registered on account of the same incident against respondent nos.2 to 5-herein. Later on, respondent nos.2 to 5 and 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, Narinder suffered

'simple' injuries in the incident which were caused by a sharp double edged weapon and he suffered three stab wounds; Bal Kishan-complainant suffered 'simple' injuries in the incident which were caused by sharp edged weapon and he suffered two stab wounds; Bhanu Priya suffered 'simple' injuries in the incident which were caused by a blunt object and she suffered lacerated wound on here occipital region; and Pooja suffered 'simple' injuries in the incident which were caused by a sharp weapon and a blunt object.

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 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 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 IPC & Sections 25/54/59 of the Arms Act 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 abdomen of the complainant and he was also hit by a sword on his left hand. Moreover, very serious injuries

were caused to the son of the complainant as he was stabbed thrice as per the MLC with a sharp weapon and the accused persons also inflicted injuries on the other injured persons by bricks.

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.381/2007 dated 29.10.2007, under Sections 147/148/149/323/307 IPC and Sections 25/54/59 of the Arms Act registered at Police Station Geeta Colony. Same is hereby dismissed.

12. This petition is accordingly disposed of.

MARCH 28, 2016

dd

**(P.S.TEJI)
JUDGE**

