

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

CRM-M No.16572 of 2016

Date of Decision: 23 - 3 – 2017

Resham Singh @ Resham Ram and othersPetitioners

v.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR.JUSTICE RAJ MOHAN SINGH

Present: Ms.Puja Chopra, Advocate
for the petitioners.

Ms.Rimplejeet Kaur, AAG, Punjab.

Mr.Tapish Gupta, Advocate
for respondents No.2 to 4.

RAJ MOHAN SINGH, J.

Petitioners have filed this petition for quashing of FIR No.125 dated 13.11.2015, under Sections 307, 148,149 IPC and Sections 25/27 of the Arms Act, Police Station Julkan, District Patiala on the basis of compromise.

The FIR was registered at the instance of complainant Sona Devi with the allegations that on 12.11.2015

at about 7 O' clock at night, petitioner No.1 – Resham Singh who is neighbour of the complainant was involved in cracker bursting in front of the gate of his house. Due to bursting of crackers, electric wire had broken down and the light of the houses had gone. The brother-in-law of the complainant, namely, Sucha Singh went to Resham Singh to make a complaint. Then Resham Singh started abusing him. Lal Singh brother of Resham Singh brought 12 bore rifle from his house. On hearing the alarm from the complainant side, mother-in-law of the complainant, namely, Gejo, sister of mother-in-law, namely, Naibo, daughter-in-law of the aunt of the complainant and brother-in-law of the complainant came to the spot. Ladies, namely, Shimla Devi, Darshana Devi and Piyari Devi from the side of the petitioners also came to the spot and started throwing bricks and stones towards the complainant party. In the meanwhile, Resham Singh raised Lalkara, exhorting his brother to shoot the complainant party. On this Lal Singh fired two shots from his 12 bore rifle and the pellets hit on right leg of the complainant, left bicep, abdomen and face and both legs of mother-in-law Gejo below the knees, on right foot of sister of mother-in-law Naibo, on the back side of the head of brother-in-law of the complainant and abdomen and legs of Preet aged 5 years who is daughter of brother-in-law of the complainant.

After registration of the case, Shimla Devi, Darshna

Devi and Piyari Devi were found innocent. Thereafter both the parties entered into a compromise on 20.11.2015 thereby amicably resolving all the differences between them. The terms and conditions of the compromise are as under:-

- “1. The compromise has been effected in the aforesaid criminal case according to the mentioned in presence of both parties and respectable persons.
2. That after one day of this Diwali i.e. on 12.11.2015 Resham Singh had fired in air as crackers of Diwali. Due to stopping of the second brother inadvertently the shot was fired downwards and due to which the pellets of which hit the ladies of first party who were passing from the front street. All this happened due to a small mistake there was no mutual dispute of anyone in this and nor this shot was fired with an intention to kill or causing any harm to anyone not was pre-planned. There is a lot of love affection and given and take between both the parties. Now respectable persons and panchayat members have effected a compromise by making both parties sit. Both the parties will live with each other with love as earlier.
3. That according to this compromise party no.1 shall extend all possible help and will make a statement for getting the case registered against party no. 2 in any police station or court or High Court for getting the case cancelled.
4. That both the parties will not file any application or criminal case against each other and both the parties shall be bound by this compromise.”

Learned counsel for the petitioners by relying upon

the ratio laid down in **Narinder Singh v. State of Punjab**, 2014 (2) R.C.R. (Criminal) 482 contended that the injuries on the person of complainant side were on the non vital part of the body. In view of the compromise, there is no possibility of proving any charge and in the absence of any concrete medical opinion, offence under Section 307 IPC would be of debatable note. In view of nature of the injuries, the case cannot fall under the ambit of Section 307 IPC. At the most, the case would fall under Section 308 IPC. The settlement had been arrived at immediately after the alleged occurrence and the matter is still pending investigation. In such a situation, as per the parameters laid down in **Narinder Singh's case (supra)**, the High Court should be liberal in accepting the settlement as the case does not fall under the category of heinous crime as per guideline No.(vii) of the aforesaid judgment. Learned counsel placed reliance on decision dated 16.5.2014 rendered in **Criminal Misc.No.M-5348 of 2014, Dharam Pal Singh v. State of Punjab and others**, wherein the FIR was quashed on the basis of compromise in a case where the injuries were caused to the complainant side with gun shots. Learned counsel also placed reliance on **Balram and others v. U.T., Chandigarh and others**, 2011(3) RCR (Criminal) 390; **Davinder Singh v. State of Punjab and another**, 2008(4) RCR (Criminal) 425 and CRM-M No.21940 of 2015, **Navdeep Singh @ Prince and**

another v. State of Punjab and another, decided on 23.9.2015 of this Court and contended that even though the offence under Section 307 IPC is held to be an offence against the society, but the 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.

Each case has to be considered on its own merits. While exercising inherent powers under Section 482 Cr.P.C., the High Court has to examine whether possibility of ultimate conviction is bleak and remote and the continuation of proceedings would put the accused to great oppression and prejudice and would result in futility. Generally the offence under Section 307 IPC falls under the category of heinous offence and it has to be treated an offence against the society and not an individual offence. At the same time, the High Court would not base its conviction merely offence under Section 307 IPC is mentioned in the FIR. It is still open before the Court as to whether insertion of Section 307 IPC in the FIR is based on material on record. Since, the investigation is pending, receipt of injuries and the timing on which the compromise has been arrived at, would result in paucity of material to be collected and produced by the prosecution. Three ladies, namely, Shimla Devi, Darshna Devi and Piari Devi have already been found to be not present at the spot. The entire case would be arguable

as to the complicity of the accused persons, whether the same would fall under Section 307 IPC or would fall under Section 308 Part 2 IPC. This is so because of the settlement between the parties that fire was incidental only and was never intended to kill anyone. Since the challan has not been presented so far and the case is at the initial stage where the parties have amicably resolved their dispute. The Court is empowered to look into the injuries sustained, whether the injuries are inflicted on the vital parts of the body and intention of the accused party. The weapon of offence used also plays an important role. As per medical record, the injuries are on the persons of the complainant party and are not on the vital parts of the body. The place of occurrence also plays a vital role on which this Court can examine as to whether there is a strong possibility of conviction or chance of conviction are bleak or remote. In case of quashing of criminal prosecution under Section 307 IPC, the factors like the offence against the society, the weapon used therein, the occurrence whether publicly exposed and exhibited and medical opinion in respect of the injuries are the factors to be considered. If the aforesaid facts cannot be substantiated on account of premature curtailment of acquisition at the instance of the complainant party, then the Court has to weigh the alleged culpability of the accused on the threshold of criteria as laid down by the Hon'ble Apex Court in **Narinder Singh's case**

(supra).

In view of the aforesaid, I am of the view that since both the parties have resolved their differences, the continuation of the prosecution would lead to vacume. The complainant party is not going to support the prosecution case. The police has not filed the challan as yet. Taking into consideration the entirety of facts and circumstances of the case, I intend to exercise inherent jurisdiction under Section 482 Cr.P.C. to quash the FIR No.125 dated 13.11.2015, under Sections 307, 148,149 IPC and Sections 25/27 of the Arms Act, Police Station Julkan, District Patiala alongwith entire subsequent proceedings, if any, undertaken in pursuance thereto. Ordered accordingly.

March 23, 2017.

**(RAJ MOHAN SINGH)
JUDGE**

RC

Whether speaking/reasoned? *Yes*

Whether reportable? *No*