

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

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Crl. Misc. M 43173 of 2016
Date of decision: 24.04.2017

Harish Sharma and others *Petitioners*

Versus

State of Punjab and another *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. K S Kahlon, Advocate
for the petitioners

Mr. Mikhail Kad, AAG, Punjab

Mr. Iqbal Mohammed, Advocate
for respondent No. 2

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Rekha Mittal, J.

Through the present petition filed under Section 482 of the Code of Criminal Procedure (in short, 'Cr.P.C.'), the petitioners have prayed for quashing of FIR No. 31 dated 25.02.2015 for offence punishable under Sections 307, 452, 324, 323 and 427 read with Section 34 of the Indian Penal Code (in short, 'IPC') registered with Police Station Division No. 1, Pathankot and proceedings emanating therefrom on the basis of compromise dated 19.11.2016 (Annexure P-2) arrived at between the parties.

Counsel for the petitioners submits that as the parties have amicably settled their dispute by way of compromise out of their free consent and sweet will without any threat, pressure or undue influence, the aforesaid FIR and proceedings emanating therefrom may be quashed.

Counsel also submits that none of the petitioners is proclaimed person nor

any proceedings for declaring them as such are pending.

In the present case, the aforesaid FIR was lodged at the behest of complainant/respondent No. 2 containing allegations that while the complainant was at his home, petitioner No. 1 along with two unidentified persons i.e. petitioners No. 2 and 3 entered his house and caused injuries to him. As per prosecution, there were total three injuries sustained by the complainant, out of which, one injury has been attributed to petitioner No. 1 on the left side of his head with *datar* and other two injuries have been attributed to petitioners No. 2 and 3, allegedly armed with *dang*.

Counsel for the petitioner argues that the aforesaid injury does not fall under the ambit of Section 307 IPC. It is pointed out by counsel that vide order dated 23.04.2015 passed by this Court in CRM M 10167 of 2015, petitioner No. 1 was granted interim anticipatory bail.

Vide order dated 02.12.2016, the parties were directed to appear before the Illaqa Magistrate/Court below to get their statements recorded with regard to genuineness of compromise.

Pursuant thereto, a report has been submitted by the Additional Chief Judicial Magistrate, Pathankot, wherein it has been reported that statements of the parties have been recorded and they have voluntarily compromised the matter.

Counsel for the State does not dispute genuineness of the compromise in view of report of the Court below.

Counsel for respondent No. 2 also concedes to the position.

Hon'ble the Supreme Court of India in ***Narinder Singh & Ors.***

Versus State of Punjab & Anr. (2014) 6 SCC 466 while dealing with a similar issue laid down certain principles by which the High Court would be

guided in giving adequate treatment to the settlement between the parties in exercising its power under Section 482 of the Code. A relevant extract from para 31 of the said judgment is, quoted hereunder:-

“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 to IV) xx xx xx

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/delicate 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.”

Concededly, in the case at hand, the matter is still under investigation. The parties have decided to settle dispute with an intent to forget their past and live in peace and harmony. As the injured victim has entered into a compromise and recorded his statement in this regard before the Additional Chief Judicial Magistrate, Pathankot, there is rare, rather almost nil possibility of his supporting cause of the prosecution if the petitioners are put to trial in case a report under Section 173 Cr.P.C. is presented on completion of investigation. That being so, it becomes a reality that the chances of conviction are remote and bleak, therefore, continuation of the criminal proceedings in the given circumstances would be nothing short of an empty formality at the cost of wastage of time money and

energy of all the stakeholders particularly the Court when otherwise the Courts are over burdened with civil and crimination litigations.

As an upshot of the aforesaid discussion, in my considered opinion, criminal proceedings initiated at the behest of the complainant need to be put to an end in the interest of justice.

For the foregoing discussion, the petition is allowed and FIR No. 31 dated 25.02.2015 for offence punishable under Sections 307, 452, 324, 323 and 427 read with Section 34 IPC registered with Police Station Division No. 1, Pathankot and proceedings emanating therefrom on the basis of compromise dated 19.11.2016 stands quashed qua the petitioners.

(Rekha Mittal)
Judge

24.04.2017
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Whether speaking/reasoned	:	Yes/No
whether reportable	:	Yes/No