

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

**CRM-M-10133-2017(O&M)
Date of decision:-18.5.2018**

Jaskaran Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.R.S. Rai, Senior Advocate with
Mr.Anurag Arora, Advocate
for the applicants/petitioners.

Mr.Gaurav Bansal, AAG, Haryana.

Mr.Deepinder Singh Brar, Advocate
for respondents No.2 and 3.

Mr.A.P.S. Deol, Sr.Advocate with
Mr.Vishal Rattan Lamba, Advocate
for applicant – Jagsir Singh.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. has been filed by
petitioners – Jaskaran Singh, Bant Singh, Surender Singh @ Chhinda,
Amritpal Singh, Ravinder Singh, Baljinder Singh, Jagraj Singh and
Gurjant Singh against State of Haryana as well as Sukhraj Singh @
Bhinda and Darshan Singh for quashing of cross version in FIR No.149

dated 29.7.2010 for the offences under Sections 307, 323, 148, 149 IPC and Section 25 of the Arms Act, registered as GDR entry No.23 at Police Station Kalawali, Sirsa, challan filed in that case along with other ancillary proceedings arising therefrom.

Briefly stated, the facts of the case are that FIR in question was registered on the basis of statement of complainant Baljinder Singh @ Kala son of Gurjant Singh, aged about 25 years, resident of village Kalawali on 29.7.2010 wherein he stated that he is an agriculturist by avocation and on 14.5.2010 his aunt Murti wife of Babu Singh, resident of village Kalawali had purchased 27 Kanals 1Marla of land situated at that very village from one Gurtej Singh son of Sukhmander Singh, resident of Badh, District Bathinda and after taking possession, she had sown cotton crop there; that Gursewak Singh, a brother of Gurtej Singh and their mother Chatin Kaur had sold their share of 27 Kanals 1 Marla each to Partap Singh son of Mukan Singh, resident of village Kalawali and others; that they had filed a civil suit with regard to 27 Kanals 1 Marla of land relating to share of Chatin Kaur purchased by Partap Singh and others in which a stay order had been passed by the Civil Court and the land was lying vacant; that on 28.6.2010, the complainant along with Gurjit Singh son of Bant Singh, Bant Singh son of Gurpal Singh, Jaskaran Singh son of Babu Singh, Balkaran Singh @ Nikka son of Babu Singh, residents of village Kalawali were working in their fields in which cotton crop was grown; that the said chunk of land had been purchased by them; that at about 5:30 p.m., a jeep bearing No.UP41-B-4987, a Zen car of white colour, an Alto car, a motorcycle and one Swaraj Tractor, fixed with cultivator came there; that Partap Singh son

of Mukand Singh, Baggar Singh son of Gurcharan Singh, Jaggi Singh son of Chand Singh, Gursewak Singh @ Mithu son of Sukhmander Singh, Sukhraj Singh @ Minda son of Gursewak Singh @ Mithu, residents of that very village and Jaswant Singh son of Nikka Singh, resident of Jagmalwali, Kala son of Jugraj Singh, resident of Rodi and 10-15 persons alighted from those vehicles; that Partap Singh was having a double barrel gun, Kala Singh was armed with a .315 bore rifle, whereas the other miscreants were having lathies, dandas and gandasas; that Partap Singh exhorted Jaggi Singh driving the tractor to harvest the standing *NARMA* crop; that the complainant and other persons present along with him objected to that; thereafter Partap Singh fired a shot from his gun with an intention to kill hitting Bant Singh on his thigh; that Kala Singh fired shots from his gun; that Baggar Singh, Jaswant Singh, Mithu Singh and Sukhraj Singh etc. caused injuries to Jaskaran Singh on his head, shoulder and forehead with their respective weapons; that the complainant Baljinder Singh, Gurjit and Balkaran Singh were also given beatings by the assailants; the complainant and other persons present along with him raised an alarm, on hearing report of the gun, Ravinder Singh @ Silli, a cousin brother of the complainant, Gurjant Singh son of Gural Singh, father of complainant, Amrit Singh son of Harbans Singh, a relative of complainant Gurjit Singh, Bant Singh and some other persons arrived at the spot; on seeing them, all the assailants ran away from the place of incident along with their respective weapons in their vehicles; that Bant Singh and Jaskaran Singh were removed to Civil Hospital, Sirsa; that keeping in view the serious condition of Bant Singh, he was referred to PGI, Rohtak. On the basis of that statement,

formal FIR was registered.

A counter version was recorded on the statement of Sukhraj Singh, who in his statement to the police stated that his father Gursewak Singh along with Gurtej Singh – brother and Chatin Kaur mother of Gursewak Singh owned 81 Kanals 3 Marlas of land at village Kalawali; that Gursewak Singh had sold 27 Kanals 1 Marla to Gurjeet Kaur wife of Chand Singh, resident of Kalawali on 1.1.2010, whereas Gurtej Singh had sold his share of 27 Kanals 1 Marla to Murti wife of Babu Singh, resident of Kalawali; that Chatin Kaur had sold her share of 27 Kanals 1 Marla to Partap Singh son of Sunder Singh, resident of Kalawali on 30.6.2010; that on 28.7.2010 at 5:30 p.m., Darshan Singh working as farm helper of complainant along with Jaggi Singh came to field of Chatin Kaur on their tractor; that Jaggi Singh was driving the tractor; Partap Singh, Jagraj Singh and Kala Singh also came there in a jeep and started ploughing the vacant land with their tractor, in the meanwhile, Rupinder Singh alias Bili, Surinder Singh and Sukhminder Singh alias Pappu sons of Gajja Singh, Gurpreet Singh son of Surinder Singh, Gurjant Singh, Bant Singh and Malkiat Singh son of Billu along with 5-7 more persons came there from nearby fields; that Rupinder Singh @ Billi and Gurjant Singh were having guns, whereas Surinder Singh was armed with a gandasa, remaining persons were armed with sotis and dandas; that Rupinder Singh fired a shot at the complainant with an intention to kill, which hit him on left lower leg, resultantly, complainant fell down; Surinder Singh gave a gandasi blow to Darshan Singh; that Gurjant Singh fired a shot from his gun, remaining persons had given slaps and fist blows to complainant and other persons present

there; that on alarm being raised and hearing report of the gun, several persons from nearby fields arrived at the spot; that on observing them, the assailants ran away along with their respective weapons; that Avtar Singh had come to the spot and Mukhtiar Singh and Partap Singh got Darshan Singh and complainant shifted in Civil Hospital, Sirsa in a jeep; that doctor after giving first aid to the complainant referred him to PGI, Rohtak.

On completion of investigation, accused in the FIR case as well as in the DDR case had been sent up to face trial. During the pendency of the trial, the matter is said to have been compromised between the accused and injured in the DDR and they filed a petition for quashing of the DDR on the basis of compromise. Statements of injured and accused had been got recorded in the trial Court and report in that regard has been sent to this Court.

I have heard learned counsel for the parties besides going through the record.

In *Anita Maria Dias and another Versus State of Maharashtra and another, (2018) 3 Supreme Court Cases 290*, the Apex Court has reemphasized the guidelines and limitations on exercise of power by High Court in quashing of proceedings based on compromise/settlement between the parties. In this authority, it was held as under:

Held, the principles on this point relevant to this case are, that where offences are predominantly of civil character, particularly arising out of commercial transactions, dispute should be quashed when parties have

resolved their dispute – Further, timing of settlement would be crucial for exercise of power or declining to exercise power – Where settlement is arrived at between parties immediately after commission of offence and matter is still under investigation, High Court may be liberal in accepting settlement to quash proceedings/investigation as investigation is in its early stage and charge-sheet has not been filed – Where charges are framed and recording of evidence is yet to commence or is at early stage, proceedings can be quashed after prima facie assessment of circumstances/materials – Where trial is at fag end, High Court should refrain from exercising its power as trial Court would be in position to decide matter on merits – Where accused already convicted and appeal against conviction is pending, mere settlement or compromise between victim and accused is not ground to accept the same resulting in acquittal of offender.

In **Narinder Singh and others Versus State of Punjab and another, 2014(2) R.C.R.(Criminal) 482**, as regards compounding of offence under Section 307 IPC, it was observed as under:

Criminal Procedure Code, Section 320 – Criminal Procedure Code, Section 307 – Compounding of offence under Section 307 IPC – It is an offence against society and non-compoundable, but in some cases supreme Court accepted the compromise between parties and quashed the proceedings but in some other compromise was not

accepted – Guidelines laid down by Supreme Court in which cases compromise be accepted and in which cases not for future guidance:-

(i) Court should look into nature of injuries inflicted i.e. whether on vital parts or non vital parts and weapons used in inflicting the injuries;

(ii) High Court, should not accept settlement when there is possibility of proving the charge – If, however, Court forms an opinion that Section 307 IPC was unnecessarily added in charge-sheet Court should accept the compromise.

(iii) If the settlement is arrived at immediately after the alleged commission of offence when the matter is still under investigation, the High Court may be somewhat liberal in accepting the settlement and quashing the proceedings/investigation.

(iv) When challan is submitted but the charge has not been framed, the High Court may exercise its discretionary jurisdiction.

(v) In view of settlement between the parties, whether it would be unfair or contrary to interest of justice to continue with the criminal proceedings and whether possibility of conviction is remote and bleak – If the Court finds an answer to this question in affirmative, then also such a case would be a fit case for the High Court to give its stamp of approval to

the compromise.

(vi) When an accused is convicted, High Court should not accept compromise during pendency of appeal and acquit the accused.

(vii) Power of quashing not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. - Such offences are not private in nature and have a serious impact on society.

(viii) For offence alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

(ix) Criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

(x) 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 quashed to

him by not quashing the criminal cases.

In State of **Madhya Pradesh Versus Deepak and others,**
2014(4) RCR(CrL) 202, the Apex Court had observed that offence under
Section 307 IPC being an offence against society cannot be treated to be
a private dispute between the parties.

In **Manoj Sharma Versus State & Ors., 2008(4)**
R.C.R.(Criminal) 827, it was observed that criminal proceedings should
not be quashed in serious offences like those under Sections 302, 395,
307, 304-B IPC on the basis of compromise.

In this case it has to be seen that one of the injured had
suffered a gun shot injury. Furthermore, after framing of the charge, the
trial is going on, statements of as many as 15 PWs have been recorded,
which means trial is at advance stage. The guilt of the accused shall be
determined during the trial. Though the accused and injured in the
statements got recorded by them before the Magistrate have admitted the
factum of compromise between the parties but considering several other
factors like one of the injured having suffered gun shot injury, the trial
being at advance stage, I do not find it a fit case to exercise jurisdiction
under Section 482 Cr.P.C. and to quash the cross version in FIR along
with ancillary proceedings.

The petition being without merit stands dismissed
accordingly.

(H.S.MADAAN)
JUDGE

18.5.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No