

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-14428-2017 (O&M)

Date of decision: 16.07.2018

Mahinder Singh @ Mohinder Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. APS Deol, Senior Advocate with
Mr. BS Seemar, Advocate for the petitioners.

Mr. Harpreet Multani, AAG, Punjab.

Mr. MK Dhot, Advocate for respondent No. 2.

Mr. Vineet Sharma, Advocate for respondents No. 3 and 4.

RAMENDRA JAIN, J. (ORAL)

CRM-23924-2018

Application is allowed as prayed for.

Copies of statement of PW-2 Dr. Manoj Kumar, PW-1 Dr. Mandeep Singh and X-ray report (Ex. PA) of Ravisher Singh (Annexures P-8 to P-10, respectively) filed along with the application are taken on record, subject to all just exceptions.

CRM-M-14428-2017

1. Through this petition under Section 482 Cr.P.C., prayer has been made for quashing FIR No. 0064 dated 08.09.2016 (Annexure P-4 Colly.) registered under Sections 307, 148, 149 IPC and Section 25 of the Arms Act at Police Station Tarsikka, District Amritsar (Rural) and all

subsequent proceedings arising therefrom, on the basis of compromise dated 08.02.2017 (Annexure P-5), effected between the parties.

2. Vide order dated 08.09.2017, parties were directed to appear before the Illaqa Magistrate/trial Court, to get their statements recorded for compromise with a direction to the Illaqa Magistrate/trial Court to furnish a report qua veracity of the compromise.

3. Consequently, parties appeared before the Sub Divisional Judicial Magistrate, Baba Bakala Sahib, District Amritsar and got recorded their statements qua compromise on 27.10.2017. Report from the Sub Divisional Judicial Magistrate, Baba Bakala Sahib, District Amritsar, vide letter No. 4120 dated 06.11.2017, duly forwarded by learned District and Sessions Judge, Amritsar, vide Endst. No. 10145R dated Amritsar, the 08.11.2017, has been received. According to the report of the learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, District Amritsar, the compromise has been entered into in between the petitioners/accused and complainant/respondent voluntarily, out of their free will and without any pressure or coercion and the same appears to be genuine one. arrived at between the complainant and accused/petitioners is without any coercion, threat, inducement or promise on the part of anyone.

4. In the instant case, quashment of FIR has been sought under Section 307 IPC. The Hon'ble Supreme Court in **Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR(Criminal) 482** has held as under: -

“31 (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/delegate 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.”

5. In **Jagroop Singh and others Vs. State of Punjab and others** in **CRM-M No.16154 of 2016 decided on 01.03.2017**, a Co-ordinate Bench of this Court in para No. 8 of the judgment has observed as under: -

“{8}. In nutshell each case has to be considered on its own merits. While exercising inherent powers, High Court has to examine whether possibility of conviction is bleak and continuation of proceedings would put the accused to great oppression and prejudice and would result in futility. Offence under Section 307 IPC falls under the category of heinous offence and generally it is to be treated offence against the State/society and not an individual offence. At the same time High Court would not base its decision merely because offence under Section 307 IPC is mentioned in the FIR or in the charge. It is still open before the Court as to whether insertion of offence under Section 307 IPC is based on evidence or it is just for the sake of incorporation in the FIR.”

6. In view of the totality of the facts and circumstances and considering the fact that the compromise will bring harmony in relations between the parties, the petition is allowed and the aforesaid FIR No. 0064 dated 08.09.2016 (Annexure P-4 Colly.) registered under Sections 307, 148, 149 IPC and Section 25 of the Arms Act and all subsequent proceedings arising therefrom, qua the petitioners is quashed, subject to payment of costs of ₹10,000/-, out of which ₹6,000/- shall be deposited with the Punjab State

Legal Services Authority and ₹4,000/- with the Bar Council of Punjab and Haryana, within two weeks from today, failing which this petition shall be deemed to be dismissed.

7. List on 28.08.2018 for production of receipts regarding deposit of costs.

July 16, 2017
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No