

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

Crl. Misc. M 20680 of 2017 (O&M)
Date of Decision: August 31st, 2018

Preet Kamal and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Kanwaljit Singh, Senior Advocate with
Mr. Sarthak Gupta, Advocate,
for the petitioners.

Mr. Amandeep Singh Gill, Sr. DAG, Punjab.

Mr. Pankaj Bhardwaj, Advocate,
for the complainant/respondent No.2.

JAISHREE THAKUR, J.

1. The petitioners herein seeks to quash the FIR No. 109 dated 16.4.2014 registered under Sections 384, 506, 115, 120-B IPC and Sections 25/54/59 Arms Act, at Police Station Sadar, Ferozepur.
2. This case has a chequered history where there has been multifarious litigation inter-se the parties. The genesis of the dispute arose from a matrimonial discord between Tarandeep Singh son of petitioners No. 5 and 6 and brother of petitioners No. 1 and 2 and the daughter of the complainant—Amandeep Kaur. A marriage was solemnized between Tarandeep Singh and Amandeep Kaur on 25.11.2013. However, the

marriage did not survive even for two months. Initially a FIR No. 35 dated 28.1.2014 was got registered by Amandeep Kaur under Sections 307, 342, 406, 498-A, 506 and 120-B IPC at Police Station Sadar, Ferozepur. After registration of the FIR No. 35, Tarandeep Singh filed CWP 2368 of 2014 seeking direction to entrust the investigation to an independent investigating agency like C.B.I., claiming that Varinder Pal Singh, father of complainant Amandeep Kaur, was well connected with high ranking police officers/officials. During the pendency of the writ petition, Tarandeep Singh and others filed LPA No. 630 of 2014, which was disposed of by a Division Bench of this Court vide order dated 22.04.2014 and a direction was given to the Director General of Police, Punjab, to look into the matter and ensure an independent investigation in the matter. The aforesaid writ petition was also disposed of by this Court vide order dated 17.4.2014 by giving a direction to the Senior Superintendent of Police, Ferozepur, to once again call all the parties and make an attempt to get the gold and other expensive articles recovered and give to the respondents therein.

3. After coming to know about the present case i.e. FIR No.109 dated 16.04.2014, under Sections 384, 115, 506, 120-B IPC and Sections 25, 54, 59 of Arms Act at the behest of Varinder Pal Singh, Tarandeep Singh made an application for modification of the order dated 22.04.2014 passed by this Court in the LPA . On this application, vide order dated 04.07.2014, a direction was given that whichever FIRs are registered inter-se parties arising from the matrimonial dispute, will be dealt with only by the Special Investigating Team (SIT), which had been constituted by orders of the this Court on 03.05.2014. On 11.07.2014, another order was passed, whereby the

Additional Director General of Police (Crime) was directed to supervise the investigation(s) and ensure free, fair and impartial investigation(s). On 17.07.2014, the aforesaid LPA was finally disposed of by observing that all the cases between the parties stood transferred to the Special Investigating Team (SIT), and the Senior Superintendent of Police, Ferozepur, had directed all the officers that in future, if, any complaint is filed, the same might be forwarded to the SIT for its consideration.

4. After presentation of the challan against Tarandeep Singh and others in FIR No 109 dated 16.4.2014 , a supplementary challan came to be presented on 22.2.2017 against the present petitioners on the allegations that the petitioners had conspired with each other and Tarandeep Singh to kill Varinder Pal Singh—complainant. The supplementary challan came to be presented after taking into account the statements of Tarandeep Singh and Robin Singh, who during the course of investigation and ***while in custody*** made statements that the petitioners, made a plan to have Varinder Pal Singh eliminated. Aggrieved against the supplementary challan presented, as well as the FIR, the instant petition has been filed.

5. Mr. Kanwaljit Singh, learned Senior Advocate with Mr. Sarthak Gupta Advocate, for the petitioners, raise twofold issues for consideration of this Court. It is argued that the supplementary challan has been presented on 22.2.2017 without following the dictates of the order dated 17.7.2014 passed in LPA No. 630 of 2014, wherein a statement had been given in Court before the Division Bench that in future if any complaint is filed, the same be forwarded to the SIT for its consideration and secondly that the petitioners herein cannot be summoned to face trial on the basis of a

statement given by a co-accused in custody by placing reliance on Section 27 of the Evidence Act 1872.

6. Per contra, Mr. Pankaj Bhardwaj, learned counsel appearing on behalf of the complainant argues that initially FIR 109 dated 16.4.2014 was registered against Angrej Singh under Sections 384 and 506 IPC and during investigation, Tarandeep Singh, Robin Singh, Sachin Sharma @ Golu, Sarabjeet Singh @ Gagan and Rajeev Sharma were nominated and arrested and Sections 115/120-B IPC and Sections 25/54/59 of the Arms Act were added. After arrest of Tarandeep Singh, he made a disclosure statement that other accused namely, Sukhinder Singh, Sukhwinder Kaur, Rupam Chawla, Preet Kamal, Ramandeep and Dr. Rameet were also involved in the conspiracy to kill Varinderpal Singh and thus the petitioners were nominated in the present case by the Superintendent of Police (H) Ferozepur. After completion of investigation, a supplementary challan was presented against the petitioners. It is argued that the SIT constituted under the order of this Court clearly looked into the matter and recommended presentation of a supplementary challan. It is also submitted that Tarandeep Singh had also challenged the said FIR and the chargesheet in CRR No. 3385 of 2016, and the same was dismissed by this Court on 21.12.2016. It is also argued that the petitioners herein have been summoned to face trial and all opportunities are available to them to argue against charges being framed and this is not the appropriate stage to challenge the supplementary challan.

7. Mr. Amandeep Singh Gill, learned counsel for the respondent—State, supports the arguments as raised by the learned counsel for the complainant, while further submitting that it is not only Tarandeep Singh,

but Angrez Singh and Robin Singh who had also stated that there was a conspiracy between all the petitioners herein to eliminate Varinder Pal Singh—complainant and it is on the statement made by these three that the petitioners herein have also been summoned to face trial.

8. I have heard learned counsel for the parties, apart from perusing the record.

9. As per the supplementary challan presented against the petitioners herein, it is alleged that on 13.04.2014, at about 02:52 p.m., four phone calls were received from mobile phone No.086079-44627 on the mobile of Archana wife of the complainant. She picked up the first phone call and the person speaking from the other side told his name as Angrej Singh from Mohali. Thereafter, four calls were received on the mobile phone of Amandeep, daughter of complainant, having No.98788-00002. However, she did not pick up the phone. When complainant-V.P. Singh came home in the evening, he called from his wife's phone at about 09:42 P.M. at the above mentioned number to inquire about the matter. The person from the other side told his name as Angrej Singh, resident of Mohali and he asked the complainant to come to Mohali in order to meet him. He disclosed to the complainant that Tarandeep (son-in-law) and Robin (Driver of Tarandeep) had hired a contract killer to kill him. They had given the contract of killing for an amount of ₹18,00,000/-, out of which, ₹2,00,000/- had been paid in advance. Angrej Singh insisted that the complainant should come to Chandigarh and thereafter, disconnected the phone. During conversation, he asked the complainant to withdraw FIR No.35 dated 28.01.2014, under Sections 307, 342, 406, 498-A, 506, 120-B IPC,

registered at Police Station, Sadar, Ferozepur, which has been registered on the statement made by Amandeep Kaur, daughter of complainant. The complainant further asserted that on 13.04.2014, Tarandeep Singh son of Sukhwinder Singh Bawa was roaming about in Ferozepur along with one unidentified person in white coloured Renault Duster, which was bearing the registration number of Chandigarh. He had shown the house of complainant to the said unidentified person. It was alleged in the FIR that an attempt was being made by Tarandeep Singh and his family members to pressureize the complainant and his family members with death threats so that FIR No 35 dated 28.1.2014 is withdrawn. The inquiry was marked to the Superintendent of Police (HQ), Ferozepur. After investigation, offence under Section 384 IPC was found to have been made out as telephone calls had been made from mobile phone No.86079-44627 of Angrej Singh on the phone of Archana, wife of the complainant. Accordingly, Angrej Singh was arrested on 19.04.2014 by ASI Naveen Kumar. One mobile phone No.86079-44627, make Samsung, was taken from his possession. During interrogation, he told that Golu resident of Ambala, had told him to inform V.P. Singh through phone that Robin Singh, Tarandeep Singh, Gagan etc. had given contract to somebody for ₹18,00,000/- to kill the complainant and they had paid a sum of ₹2,00,000/- in advance. Angrej Singh admitted having received ₹10,000/- in advance for making telephone calls. He had to receive another sum of ₹30,000/- for the said work. On the asking of Golu etc., he had to call V.P.Singh at Mohali, so that it could be easy to kill him. Aforesaid Sachin Sharma alias Golu was arrested on 23.04.2014. Sachin Sharma alias Golu stated that Angrej Singh had himself told him that he had

made phone calls to V.P.Singh and thereafter, informed him that Tarandeep Singh Bawa and his friend Gagan had talked with Sharma Bouncer to kill V.P.Singh. Mobile numbers of Sharma Bouncer and Gagan were given by him. He also disclosed that after consultation, they had to kill V.P. Singh after calling him at Mohali. Sachin Sharma alias Golu also disclosed that ₹2,00,000/- had been given in advance by Tarandeep Singh to Robin Singh. Thereafter, he arranged two country made pistols for ₹12,000/- from some unknown persons of Uttar Pradesh (UP) 15 days earlier. Sachin alias Golu, during interrogation, had confessed that he had kept two country made pistols of 315 bore wrapped in cloth in the wooden box lying in drawing room of his residential house and he could get those recovered. Thereafter, ASI Naveen Kumar after taking Sachin Sharma alias Golu along with him, arrested Sharma alias Rajiv Sharma son of Mahesh Sharma, from F. Bar Club, Sector 9, Chandigarh. During interrogation, he admitted that Robin Singh was employed as driver of Tarandeep Singh and he had introduced them to Tarandeep Singh and his friend Sarabjit Singh (Gagan). Robin Singh had introduced Sachin Sharma, Angrej Singh and Sharma Bouncer to Tarandeep Singh. ₹18,00,000/- were to be given by Tarandeep Singh for killing V.P.Singh. Thereafter, Sachin Sharma alias Golu got recovered two country made pistols of 315 bore along with 08 rounds from double bed of wooden box in his house. Pistols were found operative by ASI Naveen Kumar. All the three parcels were sealed by ASI Naveen Kumar with his seal bearing impression 'NK'. He deposited the same in the *Malkhana* of Police Station.

10. Thereafter, DDR No.18 dated 24.04.2014 was registered and

offence under Section 25 of Arms Act was added. On 25.04.2014, ASI Naveen Kumar arrested Sarabjit Singh alias Gagan and recovered mobile phone No.98148-44910 from him. On 27.05.2014, ASI Ashwani Kumar arrested accused Tarandeep Singh and on his interrogation, 06 mobile phones and 12 SIMs of different companies had been recovered. He admitted that on 13.04.2014, at about 2:30 p.m., he remained at Court Complex near Police Station, Sadar, Ferozepur and talked with his maternal aunts. Thereafter, he along with Bablu had marked the house of V.P. Singh. After sometime, he realised that police was chasing them in a private car, upon which, they had gone towards Guru Harsahai. During night time, he along with Bablu had gone to Chandigarh. The Duster car, which was being driven by Tarandeep Singh, was recovered on 05.06.2014, in which he had shown the house of complainant to Bablu. On 11.06.2014, ASI Naveen Kumar arrested Robin Singh, who during interrogation, had disclosed that he was serving as driver of Tarandeep Singh and earlier to it, he was serving as a bouncer in Chandigarh and Mohali in different clubs and was getting a salary of ₹15,000/- per month from Tarandeep Singh. After marriage, the relationship between Tarandeep Singh and his wife were strained and when the matter became serious, a case had been registered against Tarandeep Singh and his family. Due to fear from police, Tarandeep Singh along with his parents, sisters and both the brothers-in-law were staying in the house of Sarabjit Singh alias Gagan at Mohali. Tarandeep Singh and Sarabjit Singh alias Gagan being fed up had made a plan to kill V.P. Singh. Thereafter, he took both of them to Rajiv Sharma F. Bar Club, Sector 9, Chandigarh, where Rajiv Sharma had called Sachin alias Golu and Angrej. There a deal was

struck with Rajiv Sharma for ₹20,00,000/- and ₹2,00,000/- were taken as advance to give a contract of killing. Thereafter, they came back to the house of Sarabjit Singh alias Gagan and all the facts were disclosed to the other family members of Tarandeep Singh.

11. After going through the supplementary challan, the question that has been posed and needs to be answered is whether the petitioners herein can be summoned to face trial on the statement/disclosure/confession, of co-accused who was in police custody?

12. Sections 26 and 27 of the Evidence Act 1872 are to the effect that any statement made by an accused while in police custody would be inadmissible. Any recovery made pursuant to a confessional statement be made admissible as per Section 27, but the said evidence would be admissible against the maker of such statement and not against any other co-accused. Sections 26 and 27 of the Evidence Act are re-produced as under:-

“26. Confession by accused while in custody of police not to be proved against him.—No confession made by any person whilst he is in the custody of a police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.

27. How much of information received from accused may be proved.—Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby

discovered, may be proved.”

13. The question which has been posed as above, also arose for consideration before the Privy Council in the leading case ***Pulukuri Kottaya v. King-Emperor*, 1946 SCC OnLine PC 49 : 1947 Cri LJ 533** wherein the Privy Council has dealt with the provisions of Sections 26 and 27 of Indian Evidence Act in detail and observed as under:

“7.The second question, which involves the construction of Section 27 of the Indian Evidence Act, will now be considered. That section and the two preceding sections, with which it must be read, are in these terms:—

“25. No confession made to a Police Officer, shall be proved as against a person accused of any offence.

“26. No confession made by any person whilst he is in the custody of a Police Officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.”

8. *The explanation to the section is not relevant.*

“27. Provided that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence in the custody of a Police Officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

9. *Section 27, which is not artistically worded, provides an exception to the prohibition imposed by the preceding sections, and enables certain statements made by a person in Police custody to be proved. The condition necessary to bring the section into operation is that the discovery of a fact in consequence of information received from a person accused of any offence in the custody of a Police Officer must be deposed to, and thereupon so much of the information as relates*

distinctly to the fact thereby discovered may be proved. The section seems to be based on the view that if a fact is actually discovered in consequence of information given, some guarantee is afforded thereby that the information was true, and accordingly, can be safely allowed to be given in evidence; but clearly the extent of the information admissible must depend on the exact nature of the fact discovered to which such information is required to relate. Normally the section is brought into operation when a person in Police custody produces from some place of concealment some object, such as a dead body, a weapon, or ornaments, said to be connected with the crime of which the informant is accused. Mr. Megaw, for the Crown, has argued that in such a case the "fact discovered" is the physical object produced, and that any information which relates distinctly to that object can be proved. Upon this view information given by a person that the body produced is that of a person murdered by him, that the weapon produced is the one used by him in the commission of a murder, or that the ornaments produced were stolen in a dacoity would all be admissible. If this be the effect of Section 27, little substance would remain in the ban imposed by the two preceding sections on confessions made to the Police, or by persons in Police custody. That ban was presumably inspired by the fear of the Legislature that a person under Police influence might be induced to confess by the exercise of undue pressure. But if all that is required to lift the ban be the inclusion in the confession of information relating to an object subsequently produced, it seems reasonable to suppose that the persuasive powers of the Police will prove equal to the occasion, and that in practice the ban will lose its effect. On normal principles of construction their Lordships think that the proviso to Section 26, added by Section 27, should not be held to nullify the substance of the section. In their Lordships' view,

it is fallacious to treat the “fact discovered” within the section as equivalent to the object produced; the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact. Information as to past user, or the past history, of the object produced is not related to its discovery in the setting in which it is discovered. Information supplied by a person in custody that “I will produce a knife concealed in the roof of my house” does not lead to the discovery of a knife; knives were discovered many years ago. It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge, and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. But if to the statement the words be added “with which I stabbed A”, these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant.”

14. The Apex Court in **Prabhu vs. State of U.P., AIR 1963 C 1113**, approved the tests laid down in ***Pulukuri Kottaya's case (supra)***. In this case, a statement leading to discovery of blood-stained axe, clothes, etc. was held admissible, but a statement to the police that such clothes belonged to him (accused) and the axe was used in the murder was held inadmissible under Section 27 of Indian Evidence Act.

15. Further in the case ***Jaffar Hussain Dastagir v. State of Maharashtra, (1969) 2 SCC 872***, while dealing with Sections 25, 26, 27 of Indian Evidence Act, it was observed that:

“5. Under Section 25 of the Evidence Act no confession made by an accused to a police officer can be admitted in evidence against him. An exception to this is however provided by Section 26 which makes a confessional statement made before

a Magistrate admissible in evidence against an accused notwithstanding the fact that he was in the custody of the police when he made the incriminating statement. Section 27 is a proviso to Section 26 and makes admissible so much of the statement of the accused which leads to the discovery of a fact deposed to by him and connected with the crime, irrespective of the question whether it is confessional or otherwise. The essential ingredient of the section is that the information given by the accused must lead to the discovery of the fact which is the direct outcome of such information. Secondly, only such portion of the information given as is distinctly connected with the said recovery is admissible against the accused. Thirdly, the discovery of the fact must relate to the commission of some offence. The embargo on statements of the accused before the police will not apply if all the above conditions are fulfilled. If an accused charged with a theft of articles or receiving stolen articles, within the meaning of Section 411 IPC states to the police, "I will show you the articles at the place where I have kept them" and the articles are actually found there, there can be no doubt that the information given by him led to the discovery of a fact i.e. keeping of the articles by the accused at the place mentioned. The discovery of the fact deposed to in such a case is not the discovery of the articles but the discovery of the fact that the articles were kept by the accused at a particular place. In principle there is no difference between the above statement and that made by the appellant in this case which in effect is that "I will show you the person to whom I have given the diamonds exceeding 200 in number". The only difference between the two statements is that a "named person" is substituted for "the place" where the article is kept. In neither case are the articles or the diamonds the fact discovered."

Recently, the Supreme Court in the case of **Debapriya Pal v.**

State of W.B., (2017) 11 SCC 31, while following the view taken in ***Jaffar Hussain Dastagir 's case (supra)*** observed as under:-

*“10. Same reasoning goes with the recovery of laptop as well. Merely because laptop belonging to the sister of the deceased Anusha Sarkar (sic was recovered from the house of the appellant) is not indicative that the appellant is responsible for the commission of the crime. Under Section 27 of the Evidence Act only so much of recovery, as a result of the disclosure statement, which directly pertains to the commission of crime is relevant. Otherwise, such an evidence is barred under Section 25 of the Evidence Act. Recovery of laptop does not have any bearing. It is neither the weapon of crime nor it has any cause of connection with the commission of crime. The law on this aspect is succinctly said in **Jaffar Hussain Dastagir v. State of Maharashtra** in the following manner:*

“5. Under Section 25 of the Evidence Act no confession made by an accused to a police officer can be admitted in evidence against him. An exception to this is however provided by Section 26 which makes a confessional statement made before a Magistrate admissible in evidence against an accused notwithstanding the fact that he was in the custody of the police when he made the incriminating statement. Section 27 is a proviso to Section 26 and makes admissible so much of the statement of the accused which leads to the discovery of a fact deposed to by him and connected with the crime, irrespective of the question whether it is confessional or otherwise. The essential ingredient of the section is that the information given by the accused must lead to the discovery of the fact which is the direct outcome of such information. Secondly, only such portion of the information given as is distinctly connected with the said recovery is admissible against the accused. Thirdly, the discovery of the fact must relate to the commission of some

offence.”

17. Further in the case of **Dhan Raj @ Dhand vs. State of Haryana 2014 (6) SCC 745**, the Apex Court held that a person could not be convicted on the basis of the confessional statement of a co-accused, in the absence of other cogent evidence. Even recently, in **Surinder Kumar Khanna Versus Intelligence Officer Directorate of Revenue Intelligence 2018 SCC Online 757**, the Supreme Court has held as under:-

“In the present case it is accepted that apart from the aforesaid statements of co-accused there is no material suggesting involvement of the appellant in the crime in question. We are thus left with only one piece of material that is the confessional statements of the co-accused as stated above. On the touchstone of law laid down by this Court such a confessional statement of a co-accused cannot by itself be taken as a substantive piece of evidence against another co-accused and can at best be used or utilized in order to lend assurance to the Court. In the absence of any substantive evidence it would be inappropriate to base the conviction of the appellant purely on the statements of co-accused. The appellant is therefore entitled to be acquitted of the charges leveled against him. We, therefore, accept this appeal, set aside the orders of conviction and sentence and acquit the appellant. The appellant shall be released forthwith unless his custody is required in connection with any other offence.”

Therefore, in nutshell, it can safely be concluded that a person cannot be

held guilty primarily on confession of a co-accused without there being any substantive corroborative evidence to that effect.

18. In the case in hand, an FIR came to be registered on the statement given by Varinderpal Singh—complainant alleging that there was a conspiracy to kill him and that a *supari* has been taken out to that effect. In the FIR itself there is no mention of the petitioners. The only allegations made in the FIR are to effect that Tarandeep Singh and Robin Singh are conspiring to have him killed. During the course of investigation, the police recorded disclosure statements of co-accused. On a reading of the supplementary challan and the disclosure statements there is no direct statement either by Robin Singh or other co-accused that the petitioners herein were involved in the conspiracy to hire killers to eliminate the complainant. There is an oblique reference in the statement of Robin Singh that the information regarding hiring persons to kill Varinder Pal Singh was given to the petitioners. Tarandeep Singh in his statement discloses and admits to all the petitioners being involved in the conspiracy to eliminate the complainant. It is only on the basis of this disclosure statement, that the petitioners herein have been challenged subsequently, by way of filing a supplementary challan. As already discussed in detail, a confessional statement of a co-accused cannot by itself be taken as a substantive piece of evidence against another co-accused and can at best be used or utilized in order to lend assurance to the Court. However, such a confession would have become relevant under Section 27 of Indian Evidence Act if there was a discovery of a fact in consequence of information received from accused (in police custody). It is pertinent to notice here that pursuant to the

aforesaid alleged disclosure statement of Tarandeep Singh, no fact has been discovered by the police that the present petitioners were involved in the criminal conspiracy. Merely, on the basis of disclosure statements suffered by the co-accused, without any corroborative evidence, the present petitioners have been challaned.

19. In **Surendera Prasad vs. State of Bihar, 1992 Cr. LJ 2190**, it was held that under Section 27 of the Indian Evidence Act statements are not admissible against person other than the maker of the statement. Under these peculiar facts and circumstances of the present case, *prima facie* there is no material available against the present petitioners to challan them except the disclosure statements of the co-accused, which are clearly inadmissible in evidence either against the maker or against the co-accused. A disclosure statement of an accused to the police, while in police custody, can be used only for a limited purpose, as provided under Section 27 of the Indian Evidence Act and not otherwise.

20. An argument has been raised by the learned counsel for the respondent—complainant that once a challan has been presented, this Court should not interfere in the matter. It was also argued that at the stage of submission of challan only *prima facie* evidence is to be seen and the prosecution has a right to lead the conclusive evidence establishing the guilt of the accused at the time of trial, while also arguing that it is on the statement of co-accused Sachin Sharma @ Golu that recovery of weapon and live cartridges have been made and, therefore, if the proceedings are quashed, it would tantamount to travesty of justice. It was also argued that

CRR No. 3385 of 2016, filed by accused Tarandeep Singh was dismissed by

this Court on 21.12.2016, in which petition he too had submitted that the evidence with the challan is weak and insufficient. These arguments are not acceptable in view of the fact that the statements in the supplementary challan do not reflect active participation or any participation of the petitioners in hatching the alleged conspiracy to eliminate Varinderpal Singh. Tarandeep Singh who is the main accused in the FIR is facing trial. He had filed a revision petition to challenge the charges framed which is different from the challenge herein. Moreover, the judgment rendered in CRR 3385 of 2016 is distinguishable since Tarandeep Singh was named in the FIR as against the petitioners who have been named by co-accused while in custody. The main persons as mentioned in the FIR are already facing trial. It is well settled that if there is no corroborative evidence, the court can quash the F.I.R.

21. In a judgment rendered in **State of Haryana Vs Bhajan Lal 1992 AIR SC 604**, guidelines have been laid down as to when the courts can exercise extra-ordinary power under Section 482 of the Code of Criminal Procedure to interfere and quash a FIR. Primarily, such power should be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice. The Supreme Court in the case of **State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors., (2014) 15 SCC 29** similarly observed that powers under Section 482 of the Code of Criminal Procedure must be exercised sparingly, carefully and with great caution. It is only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, should the Courts exercise power to

quash the proceedings. In a latest pronouncement in the case of **Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others vs. State of Gujarat and another, (2017) 9 Supreme Court Cases 641**, while discussing the various decisions of the Apex Court, the broad principles which emerge from the precedents on the subject, have been summarized in the following propositions:

“(i) [Section 482](#) preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of [Section 320](#) of the Code of Criminal Procedure, 1973. The power to quash under [Section 482](#) is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under [Section 482](#), the High Court must evaluate whether the ends of justice would justify the exercise of the inherent

power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under [Section 482](#) and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is

concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and clause.

(ix) Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

22. Therefore, in view of the settled proposition of law that a statement/disclosure/confession of a co-accused cannot be used against another co-accused, particularly in the absence of any substantive corroborative evidence to that effect, which is the case here, this Court is of

the opinion that it would be an abuse of the process of law, if the petitioners are allowed to face trial solely on the statements of Tarandeep Singh and Robin Singh. The petitioners who are the relatives of Tarandeep should not be made to face the ignominy of a trial especially when there is no evidence direct or otherwise available to hold them prima facie guilty.

23. For the reasons afore-stated, this petition is allowed. The FIR and the supplementary challan filed qua the petitioners is hereby quashed.

24. Before parting this judgment, this Court is also of the opinion that the supplementary challan was presented against the petitioners without the same being affirmed by the ADGP (Crime) again is not in consonance with the order passed by this Court on 11.7.2014 in LPA No. 630 of 2014.

August 31st , 2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes