

CRM-M-33054 of 2017

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

CRM-M-33054 of 2017
Date of Decision: 18.07.2018

Gurmel Kaur and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. M.S. Longia, Advocate, for the petitioners.
Mr. Harpreet Multani, DAG, Punjab.
Mr. J.S. Gill, Advocate, for respondent No.2.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing FIR No.105 dated 31.07.2017 registered under Sections 458, 307, 323, 427, 506, 148 and 149 IPC at Police Station Morinda, Tehsil and District Roopnagar, Punjab, and all subsequent proceedings arising therefrom, on the basis of compromise dated 21.08.2017 (Annexure P-3), effected between the parties.

Vide order dated 13.10.2017, parties were directed to appear before the learned trial Court/Area Magistrate to get their statements recorded for compromise with a direction to the trial Court to furnish a report qua veracity of the compromise.

Pursuant to order dated 13.10.2017 of this Court, the parties appeared before the trial Court/Illaq Magistrate to get their statements recorded. Learned Additional Chief Judicial Magistrate, Rupnagar, has submitted her report vide letter bearing No.2674 dated 21.11.2017 duly

forwarded by learned District and Sessions Judge, Rupnagar vide Endst.

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No.14127 dated 22.11.2017.

According to the report, learned Additional Chief Judicial Magistrate, Rupnagar, is satisfied that parties have arrived at compromise with their own sweet will, without any inducement and coercion.

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

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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.”

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.”

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. 105 dated 31.07.2017 (Annexure P-2)) 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

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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.

List on 31.8.2018 for production of receipt with regard to deposit of aforesaid costs.

July 18, 2018
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No