

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-41585-2016

Date of decision: 13.09.2018

Harnek Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. HS Randhawa, Advocate for the petitioners.

Mr. Harpreet Multani, AAG, Punjab.

Mr. Jasraj Singh, Advocate for respondents No. 2 to 4.

RAMENDRA JAIN, J. (ORAL)

1. Through this petition under Section 482 Cr.P.C., prayer has been made for quashing DDR No. 25 dated 13.05.2008 (Annexure P-1) (cross-case in FIR No. 73 dated 13.05.2008) registered under Sections 323, 324, 336, 148 and 149 IPC (Section 307 added later on and Section 25 of the Arms Act deleted vide order of this Court dated 06.04.2018) at Police Station Julkan, District Patiala and all subsequent proceedings arising therefrom, on the basis of compromise dated 10.09.2016 (Annexure P-2), effected between the parties.

2. Vide order dated 23.11.2016, parties were directed to appear before the Illaqa Magistrate/trial Court on 14.12.2016, 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.

Consequently, parties appeared before the Additional District

and Sessions Judge, Patiala and got recorded their statements qua compromise on 14.12.2016. Report from the Additional District and Sessions Judge, Patiala, vide letter No. 276 dated 14.12.2016, duly forwarded by learned District and Sessions Judge, Patiala vide letter No. 8793/AL dated 19.12.2016, has been received. According to the report of the Additional District and Sessions Judge, Patiala, the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence.

4. In the instant case, quashment of DDR (Annexure P-1) 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 DDR No. 25 dated 13.05.2008 (Annexure P-1) (cross-case in FIR No. 73 dated 13.05.2008) and all subsequent proceedings arising therefrom, qua the petitioners are quashed, subject to payment of costs of ₹10,000/-, out of which ₹8,000/- shall be deposited with the following account:-

Account details:-	Chief Minister's Distress Relief Fund.
Account Number :-	67319948232
Bank:-	State Bank of India.
Branch:-	City Branch, Thiruvananthapuram
IFSC:-	SBIN0070028
PAN:-	AAAGD0584M
Account Type:-	Savings
SWIFT Code:	SBININBBT08

and ₹2,000/- with the Bar Council of Punjab and Haryana, within 10 days from today, failing which this petition shall be deemed to be dismissed.

5. List on 05.10.2018, for production of receipts regarding deposit of costs.

September 13, 2018

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(RAMENDRA JAIN)

JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No