

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

CRM-M-43026-2016

Date of decision:- 24.012018

Sarabjit Singh @ Saba and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Rahul Sharma, Advocate,
for the petitioners.

Mr. Harbir Sandhu, AAG, Punjab.

Mr. G.S. Simble, Advocate
for respondent No.2.

MAHABIR SINGH SINDHU, J. (ORAL)

Present petition is filed praying for quashing FIR No.99 dated 01.11.2015, under Sections 307, 506 and 34 IPC and Section 25 of the Arms Act, registered at Police Station Ghuman, Police District Batala, District Gurdaspur, on the basis of compromise entered into between the parties.

2. Heard.

3. Both the parties were directed by this Court vide order dated 07.11.2017 to appear before the learned trial Court and get their statements recorded and in pursuance thereof, learned Judicial Magistrate

1st Class, Batala, recorded the statements of both the parties and submitted a report dated 29.11.2017. A perusal of the report reveals that the compromise entered into between the parties is genuine and without any undue influence, coercion or threat. Even as on today the parties are not disputing the factum of compromise arrived at between them.

4. It is contended by learned counsel for the petitioners that although there is Section 307 IPC in this case, but there is no injury case as that was the fire shot in the air. Therefore, prima facie, offence under Section 307 IPC is not made out. Even learned State counsel has also acknowledged this fact that there was no injury in this case and the fire was in the air.

5. Learned State counsel, on instructions from investigating officer, has stated that during investigation petitioner No.1 was found innocent by the police, whereas one mobile phone was recovered from petitioner No.2. On a specific query put to him, he states that he has no objection with regard to quashing of the FIR as well as all other consequential proceedings on the basis of the compromise effected between the parties in this case.

6. Hon'ble Supreme Court in case titled as **Yogendra Yadav and others Vs. State of Jharkhand and another**, 2014(9) SCC 653 has held as under:-

“4. Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable? Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be

strictly followed (Gian Singh v. State of Punjab). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

7. In view of above, the impugned FIR and all consequential proceedings resulting therefrom are hereby quashed.

8. Petition is allowed.

January 24, 2018
naresh.k

(MAHABIR SINGH SINDHU)
JUDGE

Whether reportable?	Yes
Whether reasoned/speaking?	Yes