

In the High Court of Punjab and Haryana at Chandigarh

CRM M-7132 of 2018 (O&M)
Date of Decision: October 01, 2018

Bali Khan and others

... *Petitioners*

Versus

State of Punjab and another

... *Respondents*

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. P.S. Dhaliwal, Advocate,
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Sandeep Siwach, Advocate,
for Mr. Lakhvinder Singh, Advocate,
for respondent no. 2.

P.B. Bajanthri, J. (Oral)

1. In the present petition, petitioners are seeking quashing of FIR No. 70, dated 12.04.2013, under Sections 307, 383, 324, 323, 450, 506, 148, 149, 120-B IPC and Section 25 of Arms Act, registered at Police Station City Barnala, District Barnala along with all subsequent proceedings arising therefrom, on the basis of compromise dated 09.02.2018 (Annexure P/2).

2. This Court while ordering notice of motion, had directed the parties to appear before the trial Court for the purpose of recording their statements with regard to veracity of the compromise. The Additional Sessions Judge, Barnala has sent his report dated 06.03.2018 wherein it is stated that in pursuance to the order of this Court, statements of the parties were recorded. As per the statements, compromise has been effected without any undue influence or coercion.

3. Learned State counsel filed reply stating that parties cannot

enter into the compromise having regard to one of the offence is under Section 307 IPC.

4. Para no.29.7 of ***Narinder Singh and others vs. State of Punjab and another***, reported in **(2014) 6 SCC 466** reads as under:-

“29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section

307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

5. Perused the nature of injuries caused by the petitioners on the injured persons. It is evident that injury is not on vital part and the same is not disputed by the learned State counsel. Even though, nature of injury nos. 1 and 2 are stated to be grievous, at the same time, injury is not on the vital part. That apart, parties are residents of common village. In order to have a good relation in future, they have entered into compromise.

6. In view of these facts and circumstances, present petition is allowed and FIR No. 70, dated 12.04.2013, under Sections 307, 383, 324, 323, 450, 506, 148, 149, 120-B IPC and Section 25 of Arms Act, registered at Police Station City Barnala, District Barnala along with all subsequent proceedings arising therefrom are hereby set aside qua the petitioners subject to payment of litigation cost of Rs. 3,000/- by each of the petitioner to the District Treasury, Barnala within a period of three months from today.

October 01, 2018

vkd

[P.B. Bajanthri]
Judge

Whether reasoned / speaking : Yes

Whether reportable : No