

274 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R.M-M No.3615 of 2019 (O&M)
Date of Decision : 08.04.2019

Janak Raj & ors.

..... Petitioners

Versus

State of Punjab & anr.

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Karan Sachdeva, Advocate
for the petitioners.

Mr. Ramandeep Sandhu, Senior DAG, Punjab.

None for respondent No.2.

AJAY TEWARI, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.139 dated 17.11.2018 under Sections 307/323/34 IPC and Sections 25 & 27 of Arms Act 1959 at Police Station City Budhlada, District Mansa and all other consequential proceedings arising therefrom on the basis of compromise effected between the parties.

On 11.02.2019 the following order was passed :-

“The present petition has been filed under Section 482 Cr.P.C. for quashing of F.I.R. No.139 dated 17.11.2018 registered under Sections 307, 323, 34 IPC and Sections 25 & 27 of the Arms Act at P.S. City Budhlada, District Mansa and all other consequential proceedings arising therefrom on the basis of compromise effected between the parties.

Notice of motion. On the asking of the Court, Ms. Amarjit Kaur Khurana, Deputy Advocate General, Punjab, accepts notice on behalf of the respondent No.1. Counsel for the petitioners undertakes to supply a copy of the petition to the learned D.A.G. during the course of the day. Counsel for the petitioners further undertakes to serve respondent No.2 by way of dasti process. May do so. Dasti only.

To come up on 25.03.2019 alongwith CRM-M No.44292/2018. Meanwhile, the parties are directed to be present before the concerned C.J.M/Illaq Magistrate on 28.02.2019 or on any other date convenient to the Court for recording their statements with regard to compromise. The Court is directed to record the statements of both the parties to its satisfaction to know its genuineness that the statements are not the result of any pressure or coercion in any manner. The Court is further directed to send report along with the statements of the parties with regard to validity or otherwise of the compromise effected between the parties and also intimate whether any criminal case and proclamation proceedings is pending against either of the parties before the next date of hearing.”

The latest judgment of Three Judges Bench passed in ***State of Madhya Pradesh vs. Laxmi Narayan and others*** in ***Criminal Appeal No. 349 of 2019*** decided on 05.03.2019 has reiterated the law laid down in ***Narinder Singh Vs. State of Punjab, (2014) 6 SCC 466*** and, particularly with reference to Section 307 IPC have held as follows :-

“29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are 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 latter 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.”

Thereafter, the report of the Additional Civil Judge (Senior Division), Budhlada dated 11.03.2019 has been received wherein it has been mentioned that :-

“From the statements, it appears that compromise has been voluntarily entered into between the parties. The compromise appears to be genuine and without any pressure or coercion. No accused have been declared proclaimed offender in the present case.”

Learned Senior Deputy Advocate General on instructions from ASI Gurmail Singh points out that the parties are close relatives and in this case Section 307 IPC was invoked.

However, I find that the fire arm injury was on the calf and invocation of Section 307 IPC is debatable.

Learned Senior Deputy Advocate General is not in a position to show why this case would not be covered by the judgment of the Supreme Court quoted above.

In view of the above judicial pronouncement, I am of the considered opinion that continuation of criminal proceedings between the parties would be an abuse of the process of law and the present compromise is for their benefit and will bring peace and harmony between them.

Consequently, this petition is allowed and the above said FIR and all consequential proceedings arising therefrom are quashed qua petitioners.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

08.04.2019

Pooja sharma-I

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No