

261-7 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R.M-M No.23864 of 2018 (O&M)
Date of Decision : 25.03.2019

Rajvir Singh @ Nikka & ors.

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. G.S.Madaan, Advocate
for the petitioners.

Mr. Ramandeep Sandhu, Senior DAG, Punjab.

None for other respondents.

AJAY TEWARI, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.176 dated 17.09.2017 under Sections 307/323/325/148/149 IPC at Police Station Division 8, District Jalandhar and all other consequential proceedings arising therefrom on the basis of compromise effected between the parties.

On 30.05.2018 the following order was passed :-

“Ld. counsel for the petitioners refers to Annexure P-2, and states that the matter has been amicably settled between the parties.

Notice of motion.

At this stage, Mr. Ajay Garg, Advocate has appeared and filed power of attorney on behalf of respondents No.2 and 3 and admits the factum of compromise.

In view of the matter, the parties shall appear before the Ld. Trial Court/Illaqa Magistrate on 22nd June, 2018 for getting their statements recorded with regard to the compromise arrived at between them. Ld. trial Court/Illaqa Magistrate after ensuring their identity as well as the fact that the statements are being made by them voluntarily and without any pressure, shall record the same and will submit its report well before the next date of hearing. The Magistrate shall also report about the veracity of the compromise apart from informing the names and number of the accused involved and whether any of the accused has been declared proclaimed offender in the case.

List on 9th August, 2018.”

Thereafter, the report of the Addl. District & Sessions Judge, Jalandhar dated 24.07.2018 has been received wherein it has been mentioned that :-

“Earlier trial was fixed for 26.06.2018 and then for 17.07.2018, on both the dates none of the prosecution witnesses turn up for recording their statement.”

Learned Senior Deputy Advocate General states that all the injuries are dangerous to the life. He further states that the matter is not covered by the parameters laid down in the latest Three Bench Judgment of the Supreme Court passed in **State of Madhya Pradesh vs. Laxmi Narayan and others** in **Criminal Appeal No. 349 of 2019** dated 5.3.2019 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.”

After arguing for some time and realizing that this Court is not inclined to grant any relief to the petitioners, learned counsel for the petitioners prays for permission to withdraw the present petition with liberty to raise the issue of compromise before the trial Court and the trial Court is directed to consider the same at the stage of judgment.

Allowed as prayed for.

Dismissed as withdrawn with the aforesaid liberty.

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

25.03.2019

Pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No