

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

**CRM-M No.24702 of 2018(O&M)
Date of Decision: 13.02.2019**

Amandeep Singh @ Amana @ Amanpreet Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. R.S. Randhawa, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

None for respondent No.2.

MAHABIR SINGH SINDHU, J. (ORAL)

Present petition under Section 482 Cr.P.C. has been filed praying for quashing of FIR No.0039 dated 09.03.2018 (**Annexure P-1**), under Sections 307, 323, 324, 148 and 149 of the Indian Penal Code, registered at Police Station Payal, District Ludhiana along with all consequential proceedings arising therefrom on the basis of compromise dated 24.05.2018(**Annexure P-2**) entered into between the parties i.e. petitioners as well as respondent No. 2.

At the very outset, learned counsel for the petitioners wishes to withdraw the present petition qua petitioners No. 2 and 4.

In view of the above, the present petition is dismissed as withdrawn qua petitioners No. 2 and 4.

It is contended by learned counsel for petitioners No. 1 and 3 that the matter is at the very initial stage and, thus, the FIR in question is liable to be quashed on the basis of compromise entered into between the parties. Also

contended that since no injury had been attributed to petitioners No.1 and 3, which can be described as dangerous to life and as such in view of the judgment of Hon'ble Supreme Court in ***Narinder Singh and others Vs. State of Punjab and another 2014 (2) R.C.R. (Criminal) 482***, this petition is liable to be accepted.

On the other hand, learned State counsel has opposed the prayer of learned counsel for petitioners No. 1 and 3 while submitting that quashing of the impugned FIR under Section 307 IPC along with other offences on the basis of compromise is not justified in view of the latest judgment of Hon'ble Supreme Court titled as ***State of Madhya Pradesh Vs. Kalyan Singh and others*** passed in ***Criminal Appeal No. 14 of 2019***, decided on 04.01.2019. Further submits that after investigation in the matter, report under Section 173 Cr.P.C. has already been submitted against petitioner No. 1 and 3, namely, Amandeep Singh @ Amana @ Amanpreet Singh and Gursimran Singh @ Simma for commission of offences punishable under Sections 307, 325, 326,324, 323,148, 149 and 201 of the Indian Penal Code and in this case, there are total 14 injuries caused to the complainant and moreover, two of the co-accused, namely, Jaspreet Singh and Mani s/o Bachitter Singh are still absconding and as such, the present petition is liable to be dismissed.

Heard learned counsel for the parties and perused the paper-book.

The above noted FIR had been registered against the petitioners-accused, namely, Amandeep Singh @ Amana @ Amanpreet Singh, Gursimran Singh @ Simma , Sumandeep Singh @ Sumana and Bunty @ Banti @ Satveer Singh, along with one Sajan (non-petitioner) and two unknown persons i.e., Jaspreet Singh and Mani s/o Bachitter Singh, who were nominated during

investigation with the allegations that on 07.03.2018 at about 10:30 P.M., when complainant-Sukhdev Singh s/o Jora Singh was returning back to his village, the accused persons hit his motorcycle with their Verna Car and due to that, complainant fell down. Thereafter, the accused persons came out of the car and gave severe beatings to the complainant with their respective weapons with the intention to kill him. Petitioner No.1 had given *kirpan* blow on the left side of the head and on the left arm of the complainant, whereas petitioner No.3 gave iron rod blow on the right foot of the complainant. Petitioner No.2 is alleged to have given a *daha* blow on the right hand and left arm of the complainant whereas accused-Sajan had given *Kirch* blow on the right leg which hit below on the abdomen of the complainant and Bunty gave two/ three iron rod blows on the right leg of the complainant. The complainant was taken to Civil Hospital, Pila, where doctors, after giving him first aid, referred to Civil Hospital, Ludhiana, and from where, he was referred to PGI Chandigarh.

In pursuance of order dated 01.06.2018, passed by a co-ordinate Bench of this Court report dated 17.09.2018 has been received from learned Chief Judicial Magistrate, Ludhiana and the relevant part of the same reads as under:

“4. It is, further, stated that there are another two state cases registered against Amanpreet Singh son of Sher Singh, out of which one is pending trial in the courts at Khanna, District Ludhiana, which bears FIR No. 66 dated 25.02.2016 registered under Sections 323, 324 and 506 of the Indian Penal Code at Police Station City Khanna, District Ludhiana and FIR No. 123 of 2016, registered under NDPS Act Police Station Doraha, Ludhiana and second case is lodged against

him vide FIR No. 123 of 2016, registered under NDPS Act at P.S. Doraha Ludhiana.

5. Further, that there is another case bearing FIR No.81 dated 23.05.2017 under Section 323, 341, 506, 34 IPC, P.S. Payal District Ludhiana registered against accused Gursimran Singh @ Simma, aged 22 years, son of Sukhwinder Singh @ Neeta.”

Perusal of the extracted part of the report received from learned Chief Judicial Magistrate, Ludhiana, reveals that petitioner No.1-Amandeep Singh @ Amana @ Amanpreet Singh is facing two other criminal cases bearing FIR No. 66 dated 25.02.2016, registered under Sections 323, 324 and 506 of the Indian Penal Code at Police Station City Khanna, District Ludhiana as well as FIR No. 123 of 2016, registered under NDPS Act, Police Station Doraha, Ludhiana.

Similarly, petitioner No.3-Gursimran Singh @ Simma is also facing another criminal case bearing FIR No. 81 dated 23.05.2017, under Sections 323, 341, 506 and 34 of the Indian Penal Code, registered at Police Station Payal, District Ludhiana.

In view of the above factual position, at this stage, it is apparently clear that both petitioners No. 1 and 3 are not the first time offenders, rather having their criminal antecedents. The offence under Section 307 IPC is an heinous crime and in the present case, after investigation, report under Section 173 Cr.P.C. has already submitted against petitioners No. 1 and 3 for the commission of offences punishable under Sections 307, 325, 326, 324, 323, 148, 149 and 201 of the Indian Penal Code and the same is pending for consideration before the Court of competent jurisdiction. There are total 14 injuries inflicted to

the complainant and both petitioner No. 1 and 3 have been attributed the specific injuries and as such they cannot embark upon the jurisdiction of this Court under Section 482 Cr.P.C. for quashing of the impugned FIR on the basis of settlement with the complainant at this stage, particularly, when the State of Punjab is vehemently opposing the same.

So far as the judgement of Hon'ble Supreme Court in ***Narinder Singh's*** case (supra) relied upon by learned counsel for the petitioner is not helpful for the following reasons:

- (i) that in the recent judgment of Hon'ble Supreme Court ***Kalyan Singh (supra)*** it has been held that an FIR for the offence under Section 307 of the Indian Penal Code is not liable for quashing solely on the basis of compromise between the parties and relevant part of para No.3.1 of the same reads as under:

“Be that as it may, the fact remains that the accused was facing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC and that the offences under these sections are not non-compoundable offences and, looking to the serious allegations against the accused, we are of the opinion that the High Court has committed a grave error in quashing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC solely on the ground that the original complainant and the accused have settled the dispute.”

- (ii) As already discussed above, both petitioner No. 1 and 3 are facing other criminal cases also and as such,

they are not the first time offenders rather having criminal background;

(iii) State of Punjab, who is to maintain the law and order within the State, has vigorously opposed the quashing of impugned FIR on the basis of compromise between the private parties as offence under Section 307 IPC is an heinous offence, therefore, they are well within their powers/ rights to pursue the present case to the logical end;

(iv) Two co-accused of the petitioners, namely, Jaspreet Singh and Mani are still absconding and there is neither any compromise with them; nor they have joined the investigation till date and as such, it cannot be construed that the matter has been settled in entirety for the peace and harmony of the parties;

(v) There are total 14 injuries caused to the complainant-injured with blunt as well as sharp edged weapons, therefore, the intention of the accused can well be gathered and the same cannot be taken to be lightly and that will give a wrong message to the society.

Moreover, the judgment in **Narinder Singh's case (supra)** has already been referred to larger Bench in Criminal Appeal No. 349 of 2019 and reference order dated 08.09.2017, passed by Hon'ble Supreme Court reads as under:-

“The question raised in this case is whether a

compromise in respect of an offence alleged to have been committed under Section 307 of the IPC is permissible.

Our attention has been drawn to Narinder Singh & Ors. v. State of Punjab & Anr. [(2014) 6 SCC 466] and State of Rajasthan v. Shambhu Kewat & Anr. [(2014) 4 SCC 149].

In view of the apparent conflict between these two decisions, it would be appropriate if the matter is referred to a Bench of three Judges constituted by Hon'ble the Chief Justice.”

In view of the above, this Court is left with no option except to dismiss the present petition qua petitioners No. 1 and 3.

Ordered accordingly.

However, it is clarified that the above observations made above may not be construed as an expression of opinion on the merits of the case.

February 13, 2019

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**(MAHABIR SINGH SINDHU)
JUDGE**

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>