

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

**C.R.M-M No.35854 of 2018 (O&M)
Date of Decision : 25.03.2019**

Dara Singh & anr.

..... Petitioners

Versus

State of Punjab & ors.

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Gursharan Singh, 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.15 dated 24.03.2018 under Sections 307/324/323/34 IPC at Police Station Taragarh District Pathankot 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.15 dated 24.3.2018 registered under Sections 307, 324, 323, 34 IPC at Police Station Taragarh District Pathankot and all other consequential proceedings arising therefrom on the basis of compromise effected between the parties.

Notice of motion.

Ms. Amarjit Kaur Khurana, DAG, Punjab accepts notice on behalf of respondent No.1 and Mr. K. Arun Singh, Advocate has entered appearance on behalf of the respondent No.2.

To come up on 25.3.2019 alongwith CRM-M-44292-2018. Meanwhile, the parties are directed to be present before the Illaqa Magistrate/trial Court on 25.2.2019 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.”

Thereafter, the report of the Addl. District & Sessions Judge, Pathankot dated 25.02.2019 has been received wherein it has been mentioned that :-

“The matter has been compromised with their free will and consent and without any pressure from anyone. No PO proceeding and criminal case is pending against them.”

Learned Senior Deputy Advocate General on instructions from ASI Sanjiv Kumar states that as per MLR injury No.1 is considered to be grievous injury and dangerous to life. He further states that the matter is not covered by the parameters laid down in the latest three Judge 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

05.03.2019 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

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