

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-421 of 2018

Date of decision: 16.07.2019

Arvind @ Monu and others

.. Petitioners

Versus

State of Haryana and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. N.S. Shekhawat, Advocate
for the petitioners.

Mr. Raj Kumar Makkar, DAG, Haryana.

Mr. Jitender K. Sehrawat, Advocate
for respondent no.2.

SURINDER GUPTA, J.(Oral)

The petitioners have filed this petition under Section 482 Code of Criminal Procedure (for short, 'Cr.P.C.') seeking quashing of FIR No.165 dated 24.07.2014 (Annexure P-1), registered for offences punishable under Sections 148, 149, 323, 324, 325 and 307 of Indian Penal Code (for short 'IPC') at Police Station Naraingarh, alongwith all consequential proceedings arising therefrom, on the basis of the compromise (Annexure P-6).

2. As per case of the prosecution, on 23.07.2014, respondent no. 2-Parveen Kumar (complainant) alongwith Mohit, his cousin, was going to Court at Naraingarh on motorcycle. They had a cross-case with Arvind and Harvinder son of Sant Ram. At about 09.30 a.m., when they reached in front of Civil Hospital, Naraingarh, Arvind @ Monu and Sonu sons of Sant Ram, Dharmender @ Gangi son of Gurpal, Vikas @ Bunty son of Surender Kumar and Amandeep son of Sukhdev Singh, all residents of village Banoundi came on two motorcycles. Arvind @ Monu gave *gandasi* blow on the head of complainant and Sonu gave rod blow as a result of which he and

Mohit fell on the road. All the five assailants alighted from their motorcycles and started giving injuries. Complainant and his cousin Mohit ran towards Sehzaadpur to save themselves. While Arvind @ Monu and Sonu gave blow to complainant with *gandasi* and rod, Vikas, Amna and Dharmender gave *lathi* blows to him. The blood started oozing out of his head and he fell unconscious on the ground. The assailants ran away from the spot after considering the complainant as dead. The complainant was taken to Civil Hospital, Naraingarh, where he was medically examined by Dr. Rajiv Kumar, Medical Officer, who found following injuries on his person:-

- “(a) *Incised wound at the right temporal occipital region of scalp of size 5.5 cm X 1.5 cm.X 1 cm., advised CT scan head/x-rays and surgeon opinion*
- (b) *Incised wound at the occipital region near vertex 4 cm. X 1 cm. X 1cm. Advised x-rays and surgeon opinion.*
- (c) *Abrasion at the right elbow of 2 cm X 4 cm, advised x-rays and ortho opinion.*
- (d) *Lacerated wound at the right knee (anteriorly) of 1 cm X 1.5 cm, advised x-rays and ortho opinion.*
- (e) *Bruises at all over lower back of different size, advised x-rays and ortho/surgeon opinion. Nature of all injuries were kept under observation. Injuries no. (a) and (b) were caused by sharp edged weapon and rest of injuries caused by blunt weapon and duration of injury no. (e) was within 6 hours and duration of rest of injuries were within 2 hours.”*

3. Thereafter, complainant was brought to Government Medical College and Hospital, Sector 32, Chandigarh for treatment.

4. Before presentation of challan, police obtained opinion of Dr. Rajiv Kumar regarding injuries on the person of complainant and he

gave opinion regarding injuries (1) and (2) on his person as follows:-

“The possibility of injury no. 1 and injury no. 2 mentioned in the MLR of Parveen to be dangerous to life cannot be ruled out.”

5. On the basis of his opinion, police presented challan for offences punishable under Sections 148, 149, 323, 324, 325 and 307 IPC.

6. Learned counsel for petitioners has argued that Dr. Rajiv Kumar has not declared injuries no. (1) and (2) as dangerous to life but has only expressed his opinion that possibility of these injuries being dangerous to life cannot be ruled out. No such opinion was given by doctor, who treated complainant at GMCH, Sector 32, Chandigarh.

7. Learned State counsel submits that the trial Court after perusal of evidence has framed charges against the petitioners and one charge is under Section 307 IPC.

8. Hon'ble Apex Court in case of **Narinder Singh and others vs. State of Punjab and another, 2014 (6) SCC 466** while dealing with quashing of FIR registered for offence punishable under Section 307 IPC has observed in para 29 of the judgment as follows:-

“31(VI) Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is 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/delecate 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.”

9. In this case injuries on the person of complainant were caused by *datar* and iron rod and were declared grievous in nature. Dr. Rajiv Kumar, who gave opinion that possibility of injuries no. (1) and (2) on the person of complainant being dangerous to life cannot be ruled out, has stated that his opinion is based on medicolegal case summary of GMCH, Sector 32, Chandigarh, wherein injuries on the person of complainant were declared as grievous only. The doctor, who treated him has not declared injuries to be dangerous to life.

10. Keeping in view above facts, I am of the considered opinion that mere opinion of doctor that possibility of injuries being dangerous to life cannot be ruled out, is no reason to hold that injuries on the person of complainant were in fact dangerous to life. In this case parties have effected the compromise. As per report dated 20.02.2018 of trial Court, compromise

between the parties appears to be genuine.

11. In view of above facts and circumstances, I find no reason to allow continuation of criminal proceedings between the parties, who are also residents of same village and have effected the compromise. The quashing of FIR will provide the parties to this petition an opportunity to live in an amicable, peaceful and harmonious atmosphere, which is not only in the interest of the parties but also for their families and ultimately the society at large.

12. For the reasons as discussed above, the instant petition is allowed and impugned FIR No.165 dated 24.07.2014 (Annexure P-1), registered for offences punishable under Sections 148, 149, 323, 324, 325 and 307 'IPC' at Police Station Naraingarh along with all consequential proceedings arising therefrom, qua petitioners, is quashed.

July 16, 2019

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No