

**261-5 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**C.R.M-M No.4378 of 2018 (O&M)
Date of Decision : 25.03.2019**

Balwinder Singh @ Baljinder Singh
@ Binder

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Abhihshek Singla, Advocate
for the petitioner.

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.220 dated 21.08.2017 under Sections 307/452/427 IPC and Section 27 of Arms Act 1959 at Police Station Talwandi Sabo, District Bathinda and all other consequential proceedings arising therefrom on the basis of compromise effected between the parties.

On 02.02.2018 the following order was passed :-

“Prayer in the present petition filed under Section 482 of the Cr.P.C. is for quashing of FIR No.220, dated 21.08.2017 (Annexure P-1), registered under Sections 307, 452, 427 of the IPC and Section 27 of Arms Act, 1959 at Police Station Talwandi Sabo, District Bathinda, and all other consequential proceedings arising therefrom, on the basis of compromise dated 28.09.2017 (Annexure P-2).

Learned counsel for the petitioner submits that there is a compromise which has been entered into between the parties and that this is a case of no injury. He states that the complainant as well as the other person who were present at the spot, who are also related to the complainant, have no objection.

Notice of motion.

On the asking of the Court, Mr. Dhruv Dayal, Senior Deputy Advocate General, Punjab, accepts notice on behalf of respondent No.1.

Counsel for the petitioner has supplied a copy of the petition to the counsel for the State.

Mr. Navjeet Singh, Advocate, has filed power of attorney on behalf of respondents 2 to 4 and states that a compromise has indeed been entered into between the parties and there is no person who has been injured. He states that a compromise deed dated 28.09.2017 (Annexure P-2) has been entered into by the complainant and the other persons duly executed by respondent No.2-complainant and respondents No.3 and 4 have also signed the same.

Counsel for the parties state that the parties would appear before the Chief Judicial Magistrate/Illaq Magistrate, Talwandi Sabo, on 22.02.2018.

*In view of the statement made by the counsel for the parties, parties are directed to appear before the Chief Judicial Magistrate/ Illaq Magistrate, Talwandi Sabo, on **22.02.2018** for recording of their statements with regard to the above referred compromise on the said date or on any other date convenient to the Court.*

The Magistrate is directed to record the statements of all the accused, complainant/injured and victim, if any and submit a report along with the recorded statements before the next date of hearing containing the following information:-

- (i). Whether the statements of the parties are bona fide and are not result of any pressure or coercion etc. in any manner?*
- (ii). Whether the compromise effected between the parties is genuine and valid?*
- (iii). Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s).*
- (iv). Whether any other case is pending against either of the parties or not, if yes, the details thereof.*
- (v). Whether any of the persons involved in this case/dispute has been declared a proclaimed offender.*

*To come up before this Court on **05.04.2018**.*

Copy of this order be sent to Magistrate concerned forthwith for information and compliance.”

Thereafter, the report of the Judicial Magistrate 1st Class, Talwandi Sabo dated 22.02.2018 has been received wherein it has been mentioned that :-

“Both the parties stated that the matter has been compromised between the parties, voluntarily and without any coercion or undue influence and they further stated that no other case is pending between the parties and the present FIR may be quashed on the basis of the compromise. It is further humbly submitted that, in view of the statements of the parties, this Court is of the opinion that the statements of the parties are bona fide and are not result of any pressure or coercion etc., in any manner and the compromise effected between the parties is also genuine and valid and all the accused, complainant and injured are party to the compromise. It is further submitted that as per record and statements of the parties no other case is pending against either of the parties and as per record, no persons involved in this case/dispute has been declared a proclaimed offender.”

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** dated 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.”

It has conceded that this was a case where no injury had resulted from the shots which were allegedly fired from the licensed pistol. 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 petitioner.

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
Whether Reportable :

Yes/No
Yes/No