IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-49619 of 2017
DATE OF DECISION:-27.05.2019

PRABHJOT SINGH @ PABBA AND ORS. ...PETITIONERS...

V.

STATE OF PUNJAB AND ORS. ...RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Balbir Singh Jaswal, Advocate for the petitioners.

Ms. Sudeepti Sharma, Addl. A.G., Punjab.

Ms. Reena, Advocate
for respondents No.2 and 3.

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RAMENDRA JAIN, J. (ORAL)

In compliance of order dated 12.04.2019, duly attested photocopy of receipt qua deposit of costs has been produced in Court today. The same is taken on record. Be tagged at appropriate place.

Prayer in the instant petition under Section 482 Cr.P.C. has been made for quashing FIR No.131 dated 22.09.2017, registered under Sections 307, 506, 148, 149 IPC and Section 25 of the Arms Act, 1959, Police Station Majitha, Amritsar Rural, District Amritsar and all subsequent proceedings arising therefrom, on the basis of compromise deed (P-2).

Pursuant to latest order dated 12.04.2019 of this Court, the parties appeared before the trial Court on 20.05.2019 along with receipt of ₹15,000/-, to get their statements recorded. Learned Judicial Magistrate Ist

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Class, Amritsar, has submitted his report vide letter bearing No.125 dated 22.05.2019.

According to the report, learned Judicial Magistrate Ist Class, Amritsar, is satisfied that the compromise between the parties has been effected arrived at voluntarily, is genuine and bonafide and not a result of pressure or coercion.

In the instant case, quashment of FIR has been sought under Section 307 IPC. The Hon'ble Supreme Court in *Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR(Criminal) 482* has held as under: -

> *"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/delegate parts of the body, nature of weapons*

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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 later 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."

In *Jagroop Singh and others Vs. State of Punjab* and others in CRM-M No.16154 of 2016 decided on 01.03.2017, a Co-ordinate Bench of this Court in para No. 8 of the judgment has observed as under:

"{8}. In nutshell each case has to be considered on its own merits. While exercising inherent powers, High Court has to examine whether possibility of conviction is bleak and continuation of proceedings would put the accused to great oppression and prejudice and would result in futility. Offence under Section 307 IPC falls under the category of heinous offence and generally it is to be treated offence against the State/society and not an

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individual offence. At the same time High Court would not base its decision merely because offence under Section 307 IPC is mentioned in the FIR or in the charge. It is still open before the Court as to whether insertion of offence under Section 307 IPC is based on evidence or it is just for the sake of incorporation in the FIR."

Learned State counsel referring to judgment of Hon'ble Supreme Court titled as *"State of Madhya Pradesh vs. Kalyan Singh and ors.", 2019 AIR (SC) 312*, submits that FIR under Section 307 IPC, being offence against the society, cannot be quashed.

Taking into account the judgment of Hon'ble Apex Court titled as *"Kailash Chand vs. State of Rajasthan" 2018(4) RCR (Criminal) 292,* whereby, the Hon'ble Supreme Court quashed the FIR under Section 307 IPC and considering the fact that in *Kalyan Singh's* case (supra), judgments of *Narinder Singh's* case (supra) and *Kailash Chand's* case (supra) have not been discussed, this Court deems it appropriate to quash the FIR in view of the fact that the compromise would bring peace and harmony in relations between the parties. As such, aforesaid FIR No.131 dated 22.09.2017 along with all subsequent proceedings arising therefrom, is quashed qua the petitioners only.

Disposed of accordingly.

27.05.2019 **(RAMENDRA JAIN)**
sonika **JUDGE**

whether speaking/reasoned: Yes/No
whether reportable: Yes/No

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