

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.-M-53399 of 2018 (O&M)
Date of Decision: April 01, 2019.

Anil Kumar and others

..... Petitioners

versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR.JUSTICE AJAY TEWARI.

Present: Mr. Amandeep Chabra, Advocate
for the petitioners.

Mr.Gaurav Bansal, AAG, Haryana.

Mr. Deepak Vashisht, Advocate
for the complainant.

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Ajay Tewari, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.301 dated 02.10.2018, under Sections 147, 148, 149, 323, 307, 341, 506 IPC and 25 of the Arms Act, 1959 and Section 3(2)(v) of the SC/ST Act, 1989 (amended 2015), registered at Police Station Uchana, Jind and all other consequential proceedings arising therefrom on the basis of compromise effected between the parties.

On 03.12.2018, while issuing notice of motion, the following order was passed :-

“Prayer in this petition is for quashing of the FIR alongwith all consequential proceedings arising therefrom on the basis of compromise between the parties.

*Learned counsel for the petitioners states that in view of the law laid down by Hon'ble Supreme Court in **Narinder Singh and others versus State of Punjab and another 2014(2) RCR (Criminal) 482**, there is no*

impediment in quashing the FIR as no fire-arm injury has been caused.

Notice of motion for 21.02.2019.

Meanwhile, the parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement on 16.01.2019.

The Illaqa Magistrate/trial Court is directed to submit a report alongwith copies of statements of the parties on or before the next date of hearing containing the following information as well:

- (i) Number of persons arrayed as accused in the FIR;*
- (ii) Whether any accused is proclaimed offender; and*
- (iii) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.”*

Thereafter, the report of the Sub Divisional Judicial Magistrate Narwana dated 16.01.2019 has been received wherein it has been mentioned that :-

“In the present case, complainant Shri Rohtash appeared and his separate statement has been recorded. He stated that he has entered into the said compromise by his own volition and without any coercion, fear or undue influence. He further stated that he does not want to proceed with the present case.

The accused Anil, Sandeep, Parveen, Jaipal, Pardeep@ Sohna, Sushil, Sanjay Singh, Amit also appeared before the undersigned and they also suffered their joint statement to the effect that compromise had been arrived at between them and the complainant amicably and without any coercion, fear and undue influence and they prayed that FIR in question be quashed.

It is humbly submitted that after general examination of the parties, I was satisfied that their

compromise is genuine and has been arrived at by the parties voluntarily and out of their free will.”

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.”

Assistant Advocate General, Haryana has argued that though there was no firm-arm injury but Arms Act is involved in this case and Section 307 IPC is debatable. He 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 petitioners.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

April 01, 2019
mohinder/pooja

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No