

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

CRM-M-41294-2019

Date of Decision : 25.11.2019

Jagsir Singh @ Seera and others

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

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

Mr. Sandeep Singh Deol, D.A.G., Punjab.

Mr. Gurmeet Singh, Advocate
for the complainant/respondent No. 2

ARUN KUMAR TYAGI, J. (ORAL)

Present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') praying for quashing of FIR No. 51 dated 31.07.2016 registered under Sections 307, 325, 323 read with Section 34 of the IPC and Sections 25, 27, 54 and 59 of the Arms Act, 1959 registered at Police Station Ballianwali, District Bathinda (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 07.08.2019 (**Annexure P-2**).

The above said FIR was registered on statement of respondent No.2- Jagsir Singh. In his statement, Jagsir Singh alleged that on 29.07.2016 at about 7.00 P.M., when he, Sukhminder Singh and Kaka Singh were exercising in the playground of Ballainwali School, accused Jaswant Singh alias Gora came in car

driven by unknown person and Jaswant Singh alias Gora exhorted that Jagsir Singh be not spared and thereafter fired from his revolver on which Jagsir Singh fell on the ground and bullet crossed in air upon him. Accused-Jagsir Singh alias Seera and Pita Singh came out from the vehicle armed with handles with three more persons and accused-Jagsir Singh alias Seera inflicted blow on his right leg and accused-Pita Singh inflicted blow on upper side of left ankle. Thereafter accused-Jagsir Singh alias Seera gave blow with handle on his left wrist while accused-Pita Singh gave blow on right thumb. When Jagsir Singh raised alarm then Sukhminder Singh and Kaka Singh saved him from the clutches of the accused persons who fled from the spot with their respective weapons. Sukhminder Singh and Kaka Singh arranged a vehicle and took him to Bathinda for treatment. The above said persons had caused injuries to him due to grudge and quarrel which took place one month ago.

The petitioners have filed the present petition for quashing of the FIR on the grounds that now with the intervention of respectables, the matter has been amicably compromised between the parties and they have resolved their disputes and differences.

The Coordinate Bench of this Court, while issuing notice of motion on 25.09.2019, passed the following order:-

“The petitioners are seeking quashing of FIR No. 51 dated 31.07.2016, registered under Sections 307, 325, 323 read with Section 34 IPC and Sections 25, 27, 54 & 59 of the Arms Act, 1959, registered at Police Station Ballianwali, District Bathinda (Annexure P-1) on the basis of compromise dated 07.08.2019 (Annexure P-2), which has been arrived at between the parties.

Learned counsel for the petitioners contends that the FIR is outcome of a sudden quarrel due to misunderstanding between the residents of the same village. With the intervention of the respectables, the matter has now been compromised. He further states that the allegations in the FIR do not constitute an offence under Section 307 IPC as it is only stated that the accused had

fired in the air. Even no empties were recovered in the course of investigation and the person who was alleged to have fired shots was declared innocent by the police after investigation.

Issue notice to the respondents.

At the asking of the Court, Mr. N.K. Banka, DAG, Punjab accepts notice on behalf of respondent No.1.

Mr. Gurmeet Singh, Advocate has put in appearance on behalf of respondent No.2 and states that the matter has indeed been compromised.

List on 20.11.2019

In the meantime, the parties are directed to appear before Illaqa Magistrate/trial Court on 14.10.2019. The Illaqa Magistrate/trial Court shall record their statements with regard to the genuineness of the compromise as to whether the compromise has been effected between the parties without any undue influence or coercion and send the report to this Court before the next date of hearing.”

In terms of aforesaid order, learned Additional Sessions Judge, Bathinda has recorded the statements of both the parties and submitted report dated 18.10.2019. The operative part of the same reads as under:-

“ So, from the statements of complainant and accused, I am satisfied that the compromise has been entered upon by the parties voluntarily, without any coercion and undue influence from any cornerr. As such, compromise is genuine. ”

A perusal of the aforesaid report clearly reveals that the matter has been compromised by both the parties with their free consent, voluntarily and without any coercion or undue influence. Learned State Counsel has no objection in case the aforesaid FIR along with all subsequent proceedings arising therefrom is quashed on the basis of the compromise effected between the parties in this case.

It is now well settled that the High Court has inherent power to quash the criminal proceedings in non-compoundable cases on the basis of settlement between the parties for securing the ends of justice or to prevent abuse of the process where the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case.

Criminal cases having overwhelmingly and predominantly civil character particularly those arising out of commercial transaction or arising out of matrimonial relationship or family dispute can be quashed when the parties have resolved their entire dispute among themselves. However, such power cannot be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape dacoity, etc. which are not private in nature and have a serious impact on society. Similarly, prosecution for offences alleged to have been committed under special enactments like the Prevention of Corruption Act or the offences committed by public servant while working in that capacity cannot be quashed on the basis of compromise between the victim and the offender. For judicial precedents in this regard, reference may be made to **Narinder Singh Vs. State of Punjab : 2014 (2) RCR (Criminal) 482** and **State of Madhya Pradesh Vs. Laxmi Narayan and others : 2019(2) RCR (Criminal) 255**.

In the present case, the petitioners No.1 and 2-Jagsir Singh alias Seera and Lovepreet Singh alias Pita have been charge-sheeted by SHO Police Station Ballianwali, District Bathinda to face trial under Sections 307, 325, 323 read with Section 34 of the IPC and Sections 25, 27, 54 and 59 of the Arms Act, 1959 while petitioner No.3-Jaswant Singh alias Gora was found by the police to be innocent and his name was kept in column No.2 but subsequently on application filed under Section 319 of the Cr.P.C. he was summoned as additional accused person to face trial in the present case. Petitioner No.3-Jaswant Singh alias Gora is alleged to have fired with his revolver on complainant/respondent No.2-Jagsir Singh and have missed the target. However, no empty cartridge was recovered from the spot and recovery of the weapon of

offence was also not made from possession of petitioner No.3-Jaswant Singh alias Gora. The injuries on the person of complainant/respondent No.2-Jagsir Singh were declared to be simple and grievous caused with blunt weapons warranting applicability of Section 323 and 325 of the IPC. In the facts and circumstances of the case, the offence under Section 307 of the IPC was not in fact made out and incorporation of Section 307 of the IPC was there just for the sake of it. Section 307 of the IPC was evidently added for similar circumstances referred to by Hon'ble Supreme Court in **Narinder Singh Vs. State of Punjab : 2014 (2) RCR (Criminal) 482**. The offences are of private nature arising out of a sudden quarrel. The parties have resolved their entire dispute among themselves. In the case charges have been framed but the case is still at the stage of prosecution evidence and only 3 prosecution witnesses out of 15 have been examined.

In view of the facts and circumstances of the case the possibility of conviction under Section 307 is remote and bleak and continuation of this case will put the accused to great oppression and extreme injustice will be caused to petitioners if the case is not quashed. Therefore, FIR No. 51 dated 31.07.2016 registered under Sections 307, 325, 323 read with Section 34 of the IPC and Sections 25, 27, 54 and 59 of the Arms Act, 1959 registered at Police Station Ballianwali, District Bathinda (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom qua the petitioners. The petition is allowed accordingly.

(ARUN KUMAR TYAGI)
JUDGE

25.11.2019

Kavneet Singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No