

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-27105-2020

Date of Decision: 09.11.2020

Amrik Singh

.. Petitioner

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. B.S. Bajwa, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Haryana.

Mr. Jasbir Singh Bangar, Advocate
for respondent No.2.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 482 Cr.P.C for quashing of FIR No.258 dated 04.08.2019 (Annexure P-1) registered under Sections 307 and 452 IPC read with Section 34 Indian Penal Code, 1860 at Police Station Sohana, Mohali (S.A.S. Nagar) and subsequent proceedings arising therefrom on the basis of Affidavit by complainant dated 24.08.2020 (Annexure P-2) as well as compromise dated 24.08.2020 (Annexure P-3).

The relevant part of the above said FIR is reproduced as under:

“Statement of Sajjan Singh son of late Sh. Gurdev Singh, village Kambali, Tehsil and District Mohali, age 65 years states that I am aged person and resident of the above mentioned address. Today 04.08.2019 around 03:00 p.m. I was present at my house along with my wife Kuldeep Kaur, and my wife was sitting on bed in the corridor and while I lay on my bed and my wife was attending a telephonic call, then a man of approximately 40/5 years of black complexion came in our house and my wife on looking at him informed me that an unknown person have entered our house. When that person came near me then I stood up on my bed and that person threatened my wife that he will kill her, and thereafter that person tried to pour petrol on my wife. My wife ran into the house and when I tried to save my wife then that person threw petrol on me and with an intention to kill me by burning, ignited with the lighter that he was carrying in his hand and as a result, I got burnt. Above mentioned unknown person, entered our home and with an intention to kill me put me on fire and ran away from the spot.”

Learned counsel for the petitioner refers (Annexures P-2 and P-3) i.e. an affidavit of the complainant and a written compromise and contends that the parties have amicably settled the dispute with the intervention of the respectables and, therefore, no useful purpose would be served by continuing the prosecution of the petitioner. He prays that though the offences are not compoundable, but the power under Section 482 Cr.P.C. can be exercised. He has placed reliance upon ***Full Bench judgment of this Court delivered in Kulwinder Singh Vs. State of Punjab 2007 (3) R.C.R. (CrI) 1052. and Full Bench judgments of Hon'ble Supreme Court in Gian Singh Vs. State of Punjab, 2012 (4) R.C.R. (CrI) 543, State of Haryana Vs. Ch. Bhajan Lal & Ors., 1991(1) R.C.R. (CrI) 383, Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur Vs. State of Gujrat (2017) 9 S.C.C. 641.***

On other other hand, learned State counsel, who is assisted by SI Bharna Singh, has vehemently opposed the prayer on the ground that the offences committed are serious in nature and the challan has been presented on 05.11.2020. He has argued that considering the nature of the offences, the compromise between the parties is insignificant and, therefore, the petition deserves to be dismissed.

Learned counsel appearing on behalf of respondent No.2 also admits the factum of compromise and states that he has no objection in case prayer of the petitioner is accepted.

After hearing learned counsel for the petitioner, this Court finds that the petition has not been properly filed by the petitioner as he has not supported the pleadings with his own affidavit, and instead the affidavit of his wife has been filed on the ground that he is in prison in some other case.

Therefore, this Court finds that the petition is not maintainable in the present

Apart from it, the offence punishable under Section 307 IPC is a serious offence, which carries a punishment of imprisonment for life as well, therefore, the compromise in the present case is meaningless. No doubt the citations relied upon by the learned counsel for the petitioner have laid down the principles for exercise of inherent powers under Section 482 Cr.P.C. in respect of the offences, which are not compoundable, but at the same time, the Court is to exercise a caution before accepting the compromise by considering the nature of the crime.

At this stage, it is useful to refer, the decision of Hon'ble Supreme Court delivered in “*The State of Madhya Pradesh Vs. Laxmi Narayan and others*”, 2019 AIR (SC) 1296. The relevant portion of the judgment is extracted below:

“13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be

quashed merely on the basis of compromise between the victim and the offender;

iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. 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 framing 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. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of

the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

Adverting to the facts of the present case, it is the case of the prosecution that the petitioner poured petrol on the victim and set him ablaze, and after completion of investigation in the present case, he has been sent to face trial for commission of offence punishable under Section 307 IPC. Therefore, considering the seriousness of the offence, the sole ground of compromise raised by the learned counsel for the petitioner for quashing of the FIR is not worth acceptance.

Thus, in view of the above discussion, no case is made out for exercising the inherent powers under Section 482 Cr.P.C.

Dismissed.

09.11.2020
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes	No
Yes	No