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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 929/2020**

YOGENDAR YADAV @ PAMPU

..... Petitioner

Through: Mr. R.R. Raju, Advocate with Mr.
Nagesh Kumar, Advocate

versus

THE STATE & ANR

..... Respondents

Through: Ms. Radhika Kolluru, APP for State
with SI Sanjeet Singh, P.S. Rajouri
Garden
Mr. Aditya Kanth, Advocate for
respondent No. 2

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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19.02.2020

1. The present proceedings are instituted seeking quashing of FIR No. 162/2019 Section 307 IPC registered at P.S. Rajouri Garden on the ground of a settlement having been arrived at between the petitioner and respondent no. 2.
2. Learned counsel for the petitioner submits that the petitioner is the husband of respondent no.2 and that the present FIR is an outcome of the matrimonial disputes between the parties.
3. Learned counsel for the petitioner submits that the petitioner and respondent no.2 have settled their disputes out of Court and in terms of the settlement the grievances of respondent no.2 have been redressed. The parties are living together peacefully.

4. Respondent no. 2 is present in person and is identified by her counsel as well as by the Investigating Officer. She states that she has entered into settlement dated 29.01.2020 with the petitioner out of her own free will, volition and without any undue force, pressure or coercion. She further states that the petitioner has shown remorse and has undertaken not to repeat any such act in future consequent to which, she has no objection if the present FIR and the consequent proceedings are quashed against the petitioner. She further submits that she has been living peacefully with the petitioner along with their two children.

5. Learned counsel for the petitioners submits that no other proceedings are pending between the parties.

6. Learned APP for the State submits that the charge-sheet has been filed wherein present petitioner is the only accused and respondent no.2 is the only complainant/victim, who are present and identified by the Investigating Officer. Learned APP has also placed on record the status report as per which, the petitioner has not been involved in any other case.

7. The present FIR came to the registered on the statement of complainant/respondent no.2 wherein it was stated that she was married to the petitioner for the last 12 years. It was stated that the petitioner was a habitual drunkard and often quarrelled with her. A day before filing of the complaint, he came home drunk and quarrelled with her. A call to PCR was made and the matter was settled. Again on 27.04.2019, the petitioner came home drunk resulting into a quarrel between them subsequent to which the petitioner attempted to inflict injuries on her abdomen with a paper cutter however, while attempting to save herself, she received single injury on her

right forearm. The nature of injury has been opined to be grievous.

8. In the case of Narinder Singh and Ors. v. State of Punjab and Ors., reported as **2014 CriL J 2436**, the Supreme Court 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 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.”

9. Subsequently, in the case of Yogendra Yadav & Ors. v. The State of Jharkhand & Anr reported as **(2014) 9 SCC 653**, while placing reliance on

the decision of Gian Singh v. State of Punjab reported as (2012) 10 SCC 303, the Supreme Court in a case involving offence under Sections 323, 324, 341 as well as Sections 326 & 307 read with Section 34 IPC held as under:

“4. Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (Gian Singh vs. State of Punjab). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would

be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

10. Recently, in The State of Madhya Pradesh v. Laxmi Narayan and Ors. reported as (2019) 5 SCC 403, while reaffirming the view laid down in Narinder Singh (supra), the supreme Court held as under:

“13 (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 PC 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”.

11. The injury in the present case is inflicted on the right forearm. It has been opined to be grievous however, the injury is not on the vital organ of the body. The parties are married to each other for the last 13 years and have been living peacefully after the incident along with their children. The petitioner has also shown remorse for his act and has undertaken not to repeat the incident in future. It has been stated that the petitioner is not involved in any other case.

12. The parties shall remain bound by their statements made in Court today.

13. In view of the settlement arrived at between the parties voluntarily and the fact that the present case arose essentially out of matrimonial disputes between the parties and that injury is not on the vital part of the body, no useful purpose would be served to keep the present criminal proceedings. Accordingly, in the interest of justice, the aforesaid FIR and the consequent proceedings emanating therefrom are hereby quashed.

14. With the above directions, the petition is disposed of.

15. Order *dasti* to the counsels for the parties.

MANOJ KUMAR OHRI, J

FEBRUARY 19, 2020

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