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

+ CRL.M.C. 3964/2019

VIVEK GARG

..... Petitioner

Through: Mr. Sunil Dalal and Mr. J. Singh,
Advts. with petitioner in person.

versus

STATE & ANR

..... Respondents

Through: Ms. Manjeet Arya, APP for State with
SI Sumit Dhankar, P.S. Punjabi Bagh.
Mr. Deepak Vohra, Adv. for R-2 with
R-2 in person.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **17.01.2020**

1. The present proceedings are instituted seeking quashing of FIR No. 280/2019 under Section 307 IPC registered at P.S. Punjabi Bagh on the ground of settlement having been arrived at between the petitioner and respondent no. 2.
2. Learned APP for the State submits that the charge sheet in the present case has been filed against the petitioner and respondent no.2 is the only complainant/victim.
3. Learned counsel for the petitioner submits that as per the prosecution case, on 18.05.2019, while the complainant came out of his house to go to his office, he was hit by a white coloured Endeavour Car driven by the petitioner. It was alleged that the petitioner even attempted to reverse the car and attempted to run over the respondent with an intention to kill him.
4. Learned counsel for the petitioner submits that the aforesaid

complaint was made in the heat of the moment and as a result of the inadvertent accident, an injury only on the wrist of the respondent was caused, as duly noted in his MLC. He further submits that the injuries were not caused on any vital part of the body.

5. He has drawn the attention of the Court to a letter which was written by respondent No.2 on 18.05.2019, i.e., on the day of the incident, addressed to the SHO, P.S Punjabi Bagh, wherein it was mentioned that the petitioner was his friend and he did not wish to pursue any legal action against him. The aforesaid letter is reproduced as follows:

“To

*The SHO
P.S. Punjabi Bagh
New Delhi*

Respected Sir,

It is submitted that I Mukesh Gupta S/o Late V.K. Gupta resident of 36, East Avenue Road, Punjabi Bagh age 45 years. Today on 18th May, 2019 at about 9:00 a.m. got injured from car white Endeavour No. DL-5CA-6508 of my friend Vivek Garg. At that time both of us parking with each other but incidentally I got injured in this and admitted in Maharaja Agarsen Hospital. My friend Vivek Garg did not have any kind of wrong intention in this. This was just a coincidence. I do not want any legal action.

Sd/-

Mukesh Gupta

18.05.2019

*K Gupta
9911413512*

Sd/-

Sd-

Rakesh Gupta
9873555599

I don't want any police action further."

6. Learned counsel for the petitioner has referred to the decisions of the Coordinate Bench in Shri Rajesh Kumar v. State and Anr. reported as **2015 SCC OnLine Del 11849** and Inderjeet Singh and Ors. v. The Govt. of NCT of Delhi and Anr. reported as **2019 SCC OnLine Del 10404** and the decision of a Single Bench of the Punjab and Haryana High Court in CRM-M-50124 of 2018, Jagdish and Ors. v. State of Haryana and Anr., decided on 2.05.2019, in support of his submissions.

7. 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.”

8. 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.”

9. 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”.

10. In the present case, the petitioner as well as the complainant are stated to be childhood friends having known each other and are residents of the same locality. A perusal of the MLC of the injured would indicate that the only injury noted in the MLC is a *CLW over distal left forearm*. In view of the letter written by the respondent on the same day of the registration of the FIR as well as the injury, the charge-sheet was filed without arrest against the petitioner. During investigation, no Endeavour car was found involved in the accident and what was seized by the Police was an Ecosport car.

11. In the FIR, the complainant had stated that after he got hit by the petitioner's car, the complainant had reversed the car with an intention to kill him, however, on account of being scared by the crowd that had gathered, the petitioner ran away. It is apparent that even going by the complainant's allegation, the petitioner did not hit the petitioner or took any other step after forming the alleged intention except reversing his car and fleeing away. Even otherwise, the complainant on the very same day through his afore-mentioned letter given to the SHO stated that the petitioner

did not have any wrong intention and the injury on the wrist occurred incidentally on account of playing prank with each other. In these facts and circumstances, an injury on the wrist, even if opined to be grievous, does not satisfy the ingredients of Section 307 IPC and rather attracts Section 325 IPC.

12. The parties have settled their dispute out of Court and the injuries sustained by respondent no.2 are on his wrist and not on any vital part of his body. In terms of the settlement, respondent no.2 is now left with no claim whatsoever against the petitioner. The petitioner has also shown remorse for his conduct and undertakes not to repeat the same in future.

13. The petitioner and respondent no.2, who are present in person, have been identified by their respective counsels as well as the Investigating Officer.

14. Respondent no. 2 states that he has entered the settlement with the petitioner out of his own free will, volition and without any undue force, pressure or coercion. He further states that he has pardoned the act of the petitioner and has no objection if the present FIR and the consequent proceedings are quashed.

15. Learned counsels for the parties submit that no other proceedings are pending between the parties.

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

17. In view of the aforesaid settlement arrived at between the parties, in my view, no useful purpose will be served in continuance of the present criminal proceedings. Accordingly, in the interest of justice and subject to payment of costs of Rs.1 lac to be paid by the petitioner to AASRA Fund

maintained by the Registrar General of this Court within a period of four weeks, the aforesaid FIR and the consequent proceedings emanating therefrom are hereby quashed. The proof of deposit be filed in the Court as well as with the Investigating Officer.

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

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

MANOJ KUMAR OHRI, J

JANUARY 17, 2020

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