

CRR 1381 of 2021
With
CRAN 01 of 2021

In re : An application under section 482 of the Code of Criminal
Procedure, 1973

In the matter of : **Jahanara Begum @ Jahanara Begam Sekh**
& Ors.

..... petitioners.

Mr. Niladri Sekhar Ghosh

.... For the petitioners.

Mr. Mujibar Ali Naskar

... for the Opposite Party Nos 2 & 3.

Mr. Madhusudan Sur

Ms. Sukanya Bhattacharya

Mr. Dipankar Paramanick

Mr. Pratik Bose

... for the State

This is an application for quashing of the proceeding being
G.R. Case No. 183 of 2020 under Sections 448/326/307/34 of
the Indian Penal Code, 1860 pending before the learned
Additional Chief Judicial Magistrate, Arambagh, Hooghly.

It has been strenuously argued by the learned advocate for
the petitioner, that, having regard to the nature of offences
involved in this case should be quashed on the joint prayer of
the accused and the de-facto complainant.

The State was directed to produce the case records, and I
have gone through the case diary.

The specific issue as to whether an offence under Section
307 of the Indian Penal Code, 1860 should be quashed in
exercise of the inherent power of this Court on compromise has
been specifically dealt with by the Supreme Court in the case
reported at **(2019) 5 SCC 688 (State of Madhya Pradesh v.**
Laxmi Narayan). Noticing two conflicting views rendered in

(2014) 6 SCC 466 (*Narinder Singh v. State of Punjab*) and **(2014)4 SCC 149 (*State of Rajasthan v. Shambhu Kewat*)**,

the said Bench of three Judges has laid down the law with regard to quashing of an offence under Section 307 as follows:

“15.4. 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/delicate 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 paras 29.6 and 29.7 of the decision of this Court in *Narinder Singh* should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;”

In this case admittedly, investigation is complete, and the charge-sheet has also been filed. The statements recorded under Section 161 and in particular the statements of the accused recorded under Section 164 suggest that there was a serious attempt by the accused persons to hang the victim lady from a ceiling fan using a scarf. The victim lady fell unconscious and her tongue came out.

Learned advocate, appearing for the accused persons, strenuously tried to impress upon me that the ratio laid down in **Narinder Singh** (supra) has not been diluted by the pronouncement of the judgment in **Laxmi Narayan** (supra). There is no quarrel to the proposition that in each and every case where the allegations under Section 307 have been levelled, the quashing should be refused as a matter of course. The guidelines in this regard have already been quoted herein above.

Having regard to the factual aspects of the case in hand, I am of the view that this is not a fit case where the inherent power of this Court should be exercised.

The applications being CRR 1381 of 2021 and CRAN 01 of 2021 are dismissed.

(Kausik Chanda, J.)