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

CRM-M-19715-2021

Date of Decision: 01.07.2021

Kalkata Singh**.. Petitioner****Vs.****State of Punjab and others****..Respondents****CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. L.S. Sekhon, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab

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Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 482 Cr.P.C for quashing of FIR No.229 dated 30.10.2020 (Annexure P-1) registered under Sections 307, 452 and 506 IPC and Sections 25 and 27 Arms Act, 1959 at Police Station Talwandi Sabo, District Bathinda and DDR No.29 dated 30.10.2020, registered under Section 307 IPC, 1860 and Sections 25 and 27 Arms Act, 1959 at Police Station Talwandi Sabo, District Bathinda (Annexure P-2) and subsequent proceedings arising therefrom on the basis of compromise dated 10.11.2020 and 17.12.2020 (Annexures P-3 and P-4) respectively.

The above FIR was registered on the statement given by Purshotam Singh @ Toti, which reads as under:-

“Statement of Purshotam Singh @ Toti s/o Ramesh Kumar s/o Babbu Ram r/o Ward Number 1, Natt Road Opposite Indane gas Agency, Talwandi Sabo, PS Talwandi Sabo, District Bathinda aged about 40 years Mob no.92161-21700, recorded his statement that I am resident of above said and I have a shop of Cement and Iron bars on Rori road Opposite Indian Bank Talwandi Sabo. Today I was sitting on the counter inside my shop and at around 10.45 AM that Kalkatta Singh s/o Megh Singh r/o Chattha Mohalla Talwandi Sabo came on his Bullet motorcycle numbered CH-01AD-7394 and after entering into my shop pointed his revolver that now

who will save you today? I stood up with folded hands and at that time Satpal Singh @ Vicky s/o Kaka Singh r/o college Road Talwandi Sabo came in front of Kalkatta Singh and stopped him. Kalkatta Singh scuffled with Satpal Singh. By taking its benefit I escaped for saving my life through the back gate and then Kalkatta Singh chased me with his Revolver in hand. I escaped from the back gate in the street by running and then Kalkatta Singh with intention to kill me fired a shot from his Revolver and I sat down and the gun shot went past above me and while shouting I ran away while saving my life and then he fired 4/5 more fire shots outside my shop. Crowed gathered there and he on his Bullet motorcycle ran away from the spot. I also came to know that at the same time near the Pump of Mohan Lal Sharma on Rori road Gurtej Singh s/o Mohar Singh r/o Desu Malkana and Balwinder Singh s/o Tarsem Singh r/o Jajjal who had purchased land from Kalkatta Singh etc at around 10.30Am he also fired shots. Thereafter my father Ramesh Kumar who was going on his motorcycle in relation to some work to Village place of Ram Tirath, then near the Pump of Mohan Lal Sharma at the limits of Talwandi Sabo he fired two fire shots with intention to kill. As my father was on opposite side to him, therefore he was safe. The reason of the grudge is that we had a money transaction with Kalkatta Singh. I had gone to their home for taking the money. He felt bad with that and today after entering into my shop and with intention to kill he fired fire shot towards me and threatened me and abused me. He fired shots in air outside my shop. I and my father were coming to inform you, and you have met us outside the PS. An action shall be taken against Kalkatta Singh. Statement has been recorded to you, heard it is correct.”

Learned counsel for the petitioner refers to Annexures P-3 and P-4 to contend that the compromise has been arrived at between the parties with the intervention of the respectables and the dispute has been amicably settled. According to him, the prosecution of the petitioner would be a futile exercise and prays for quashing of FIR.

On the other hand, learned State counsel assisted by ASI Ranjit Singh, has opposed the prayer on the ground that the offences committed are serious in nature and investigation is in progress. According to him, in such type of heinous crimes, compromise is meaningless and prays for dismissal of the petition.

After hearing learned counsel for the petitioner, this Court finds

that the solitary ground of compromise raised in the petition is not worth acceptance. At this stage, it will be useful to refer the decision in “***The State of Madhya Pradesh Vs. Laxmi Narayan and others***”, 2019 AIR (SC) 1296, the Hon'ble Supreme Court has laid down the principles for quashing of the criminal proceedings in non-compoundable offences by exercising inherent powers under Section 482 Cr.P.C. The relevant portion of the judgment is extracted below:

*“However, the High Court has not at all considered the fact that the offences alleged were non-compoundable offences as per Section 320 of the Cr.P.C., 1973 from the impugned judgment and order, it appears that the High Court has not at all considered the relevant facts and circumstances of the case, more particularly the seriousness of the offences and its social impact. From the impugned judgment and order passed by the High Court, it appears that the High Court has mechanically quashed the FIR, in exercise of its powers under Section 482 Cr.P.C., 1973 the High Court has not at all considered the distinction between a personal or private wrong and a social wrong and the social impact. As observed by this Court in the case of ***State of Maharashtra v. Vikram Anantrai Doshi, 2014 (4) R.C.R (Criminal) 381: (2014) 15 SCC 29***, the Court’s principal duty, while exercising the powers under Section 482 Cr.P.C., 1973 to quash the criminal proceedings, should be to scan the entire facts to find out the thrust of the allegations and the crux of the settlement. As observed, it is the experience of the Judge that comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence.”*

In the case of ***Gian Singh V. State of Punjab 2012(4) R.C.R.***

(Criminal) 543: (2012) 10 SCC 303, the Apex Court has observed and held as under:

“The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim’s family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences.”

From the aforesaid observations of Hon'ble the Apex Court, it

is apparent that the offences with serious magnitude and gravity, having a

serious impact on the society, have been excluded from the purview of powers to be exercised under Section 482 Cr.P.C. As per allegations in the FIR, petitioner was armed with firearm weapon, who fired multiple shots upon complainant and others. Merely because, no injury was suffered by the victims, it could not be said that the offence punishable under Section 307 IPC would not be made out. Therefore, the compromise relied upon by the petitioners is rejected.

Considering the seriousness of the offences, but without expressing any opinion on the merits of the the prosecution case, this Court does not find any ground to exercise inherent powers under Section 482 Cr.P.C. for quashing of the FIR on the sole ground of compromise.

Petition is dismissed.

01.07.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No