

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

CRM-M-19587-2021

Date of decision-01.07.2021

Sabir and others

...Petitioners

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Mazlish Khan, Advocate for the petitioners.

Mr. Bhupender Singh, DAG, Haryana.

MANOJ BAJAJ, J. (Oral)

Petitioners have filed this petition under Section 482 Cr.P.C for quashing of FIR No.60 dated 01.04.2020 (Annexure P-1) registered under Sections 148, 149, 323, 307 and 506 Indian Penal Code, 1860 and Section 25 Indian Arms Act, 1959 at Police Station Bicchor, District Nuh on the basis of compromise deed (Annexure P-2).

The FIR was registered on the statement of Sahim son of Sahid, wherein it was alleged that complainant runs a small karyana shop in the village. Complainant's grandmother got registered FIR against accused persons, therefore, they all had enmity with complainant. On 30.03.2020, complainant's younger brother went to field for harvesting crops. At about 6.40, accused persons namely,

Hayat, Maneesh, Salim, Irfan, Mubeen, Asgar, Maksood, Munshi, Altaf, Mushtak, Akbar, Aasu, Sabir, Javed, Hasan, Sabir, Noor Mohd and 4-5 other unknown persons came out of Irfan's house and raised exhortation. Salim who was armed with illegal weapon, tried to fire gunshot at the complainant, however, he saved himself. Thereafter, Hayat who was armed with rifle fired, which hit the complainant brother-Naved, who fell down and became unconscious. In the meantime, other accused persons, who were armed with lathis, stones, bricks, attacked on complainant's brother. Thereafter, all the assailants ran away from the spot after extending threats. On these broad allegations, FIR was registered.

Learned counsel for the petitioners refers to Annexure P-2 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 SI Attar 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 parties, 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 Anantrao 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, the assailants were armed with firearm weapons, who fired gunshots and caused injuries to the victims. Therefore, the compromise relied upon by the petitioners is rejected.

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

Petition is dismissed.

(MANOJ BAJAJ)
JUDGE

01.07.2021

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No