

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH
(Heard through Video Conferencing)**

Crl. Misc.M-28267 of 2020 (O&M)
Date of Decision: January 14, 2021

Gurmej Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajesh Kapila, Advocate
for the petitioners.

Ms. Bhavna Gupta, DAG, Punjab.

Mr. Vikram Satpal Anand, Advocate,
for the complainant.

JAISHREE THAKUR, J.

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure (for short '**the Code**') for quashing of the FIR No. 73 dated 18.5.2020, under Sections 307, 324, 506, 355/34 IPC registered at Police Station Sadar Ferozepur, District Ferozepur, primarily on the basis of a compromise having been arrived at between the parties.

2. In brief, the facts as stated are that the above mentioned FIR came to be registered at the behest of the complainant—Tirath Singh son of Baldev Singh—respondent No.2 herein, stating that he and his family members along with his uncle Gurmej Singh son of Darshan Singh and

Sukhdev Singh son of Darshan Singh, are jointly residing in one house. There was a dispute regarding partition of the house with Gurmej Singh. On 11.5.2020 at around 9 a.m., the complainant had gone to his field for bringing fodder when Gurmej Singh, his son Gagandeep Singh, (armed with kirpan and knife respectively), daughter Ranjit Kaur and wife Harjinder Kaur (both empty handed) were standing at the Tubewell. Gurmej Singh raised a *lalkara* stating that a lesson should be taught for seeking partition of the house. Gagandeep Singh inflicted a knife blow which hit on the the chest towards left side of the complainant and when he tried to run away, Ranjit Kaur and Harjinder Kaur caught hold of him by hair and Gurmej Singh gave a *kirpan* blow on his chest towards right side and Gagandeep Singh gave another *knife* blow which hit on his right biceps. On account of the injuries inflicted, the complainant became unconscious and his father thereafter took him to the Civil Hospital, Ferozepur, where he remained admitted for 20 days on account of the injuries inflicted and thus the FIR came to be registered.

3. Subsequent to the filing of the FIR, a compromise dated 14.8.2020 was arrived at between the parties with the intervention of the village respectables and it was decided that both the parties would live in peace and harmony in future. It was also agreed that cross-case registered bearing No. Rapat No. 33 dated 20.5.2020 regarding the injuries received by Gurmej Singh and his family would be cancelled and so would the FIR.

4. In support of the petition seeking quashing of the FIR, an affidavit dated 14.8.2020 has also been filed by the complainant wherein he

has averred that he would have no objection to the quashing of the FIR, while further affirming that in case his statement is needed before the police or the court, he would be bound to give statement in favour of the accused in the said FIR.

5. Pursuant to the filing of the petition, the parties were directed by order dated 29.10.2020 to appear before the Illaqa Magistrate concerned for recording their statement regarding genuineness of the compromise arrived at between the parties. Before the Additional Chief Judicial Magistrate, Ferozepur, the complainant, namely, Tirath Singh son of Baldev Singh stated that he has effected the compromise with the petitioners voluntarily with the intervention of the respectable of the locality and he would have no objection in case the FIR is quashed. Similarly, the accused under the FIR also recorded their statement to the effect that they have compromised with Tirath Singh—complainant. The Additional Chief Judicial Magistrate, Ferozepur, in his report, has opined that the statements of the parties are bonafide and are not result of any pressure or coercion etc. and the compromise effected between the parties is genuine and valid.

6. However, learned counsel for the respondent—State submits that even though the matter stands compromised and the statements have been recorded, the FIR cannot be quashed in view of the judgment rendered by a three Judges Bench of the Supreme Court in **State of Madhya Pradesh Vs. Laxmi Narayan and others 2019 (5) SCC 688**. Learned counsel has produced legal medico report, wherein the doctor has opined that the injuries 1, 3 and 4 sustained by the complainant are dangerous and once

Section 307 IPC had been added in the FIR, the same cannot be quashed as the offence would fall in the category of heinous and serious offence and it is to be treated as a crime against the society and not against an individual.

7. On the other hand, both the learned counsel for the petitioners (accused in the FIR) and the complainant submit that once the matter has been compromised inter-se the parties, the petition ought to be allowed and the FIR quashed. Learned counsel submit that the parties are closely related being uncle and nephew and residing jointly within the same premises, it would be in the interest of all that the FIR is quashed. It is further argued that quashing of the FIR would lead to harmony between the parties and would also improve their future relationship. In support of their contentions, the counsel would rely upon the judgment rendered in **Narinder Singh Vs. State of Punjab (2014) 6 SCC 466**. It is also submitted that the judgment relied upon by the learned counsel for the respondent—State rendered in **Laxmi Narayan's case (Supra)** also helps the petitioners as in that judgment itself it has been held that ultimate conclusion in paragraphs 29.6 and 29.7 of the decision in **Narinder Singh (Supra)** be read harmoniously and to be read as a whole and in the circumstances stated therein.

8. I have heard learned counsel for the parties and with their assistance have gone through the pleadings and the judgments relied upon.

9. The factum of the FIR having been registered and the matter having been compromised between the parties with the intervention of the respectable of the village are not in dispute. It is also not in dispute the fact

that the parties (i.e. the complainant and the accused—petitioners herein) appeared before the Additional Chief Judicial Magistrate, Ferozepur and got their statements recorded independently regarding the genuineness of the compromise and the fact that the complainant does not want to pursue with the FIR registered at his behest.

10. Section 320 of the Code pertains to compounding of offences, which are punishable under the Indian Penal Code. Section 307 IPC does not find mention therein. The question pertaining to quashing of offences which are non-compoundable under Section 320 of the Code has been dealt with by the Supreme Court on several occasions, some of the relevant judgments being **Gian Singh Versus State of Punjab (2012) 10 SCC 303**, **Narinder Singh Vs. State of Punjab (2014) 6 SCC 466** and **Parbatbhai Aahir Vs. State of Gujarat (2017) 9 SCC 641**.

11. In **Gian Singh's case (Supra)**, the Supreme Court, while holding that the power of the High Court for quashing of a criminal proceeding or FIR or a complaint in exercise of its inherent jurisdiction is distinct and different from the power given for compounding of offences under Section 320 of the Code, observed as under:-

“61. 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. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In

other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

12. In a subsequent judgment in **Narinder Singh (Supra)**, the Supreme Court, on consideration of the judgment rendered in **Gian Singh (Supra)**, came to hold that offence like Section 307 IPC would fall within the category of heinous and serious offence and, therefore, ought to be treated as a crime against the society and not against an individual alone. However, it was further held that it would be open to the High Court to go into the nature of injuries sustained, whether injuries were inflicted on vital parts of the body, nature of weapon used etc. and medical report could be used as a guiding factor to determine the grievousness of the injuries inflicted. It was further held that the High Court could examine whether there was a strong possibility of conviction or chances are bleak, while looking into the issue. The High Court could also assess the situation as to whether the settlement between the parties was going to result in harmony between them and would improve their relationship. The Supreme Court further held that the time of the settlement would play a crucial role; whether the settlement has been arrived at immediately after the commission

of crime, or at the stage of investigation or whether the matter is already at the trial stage. The Supreme Court summed up as under:-

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are 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 latter 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.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at

immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

13. Thereafter, on account of conflicting decisions in the cases of **Narinder Singh Vs. State of Punjab (2014) 6 SCC 466** and **State of Rajasthan Vs. Shambhu Kewat (2014) 4 SCC 149**, wherein it was held that the power of criminal Court is curtailed by the provision of Section 320

of the Code, the matter has now been settled by a larger Bench in the **State of Madhya Pradesh Vs. Laxmi Narayan and others 2019 (5) SCC 688**. The Supreme Court has, inter-alia, held that offence under Section 307 IPC would fall in the category of heinous and serious offences and, therefore, is to be treated as a crime against the society and not against an individual. Furthermore, in **Narinder Singh's** case (supra), the Supreme Court had held that timing of a settlement would be relevant factor to be considered at the time of quashing of an FIR on the basis of a compromise, but in **State of Madhya Pradesh Vs. Laxmi Narayan and others 2019 (5) SCC 688**, the Supreme Court has categorically held that the power to quash an FIR would be permissible *“only after the evidence is collected after investigation and charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation.”* The relevant portion of the judgment is reproduced hereunder:-

“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 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/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 25 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”

14. On inquiry from the learned counsel for the respondent—State, it was informed (after getting instructions from ASI Jagjit Singh) that charge sheet has not been filed in the instant case as yet. Therefore, in view of the settled position of law in **Laxmi Narayan's (Supra)**, the instant FIR cannot be presently quashed on the basis of the compromise arrived at between the parties.

15. Consequently, the present petition is dismissed.

January 14, 2021
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No