

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(218)

CRM No. M-31884 of 2019
Date of Decision : 07.12.2021

Jaspreet Singh alias Jassa and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Anshika Sharma, Advocate for
Mr. H.S. Brar, Advocate for the petitioners.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Mr. Jivitesh Singh Dosanjh, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

In the present petition, the prayer of the petitioners is for quashing of FIR No. 79 dated 12.06.2014, registered under Sections 307, 148, 149 and Section 25, 54, 59 of Arms Act at Police Station Nihal Singh Wala and all other subsequent proceedings arising therefrom, on the basis of compromise dated 20.05.2019 (Annexure P-2) entered into between the parties.

Learned counsel for the petitioners submits that though the provisions of Section 307 IPC as well as Section 25 of the Arms Act have been invoked in the present FIR but, there is no material on record to support the said action of the investigating agency and hence, as the parties

have already compromised their dispute so as to live peacefully, the FIR in question may kindly be quashed.

Learned counsel appearing on behalf of respondent No. 2/ complainant supports the contentions of learned counsel for the petitioners and submits that respondent No. 2 does not have any objection in case, the prayer of the petitioners for quashing of FIR in question is accepted on the basis of compromise.

Learned State counsel, on the other hand, opposes the prayer of the petitioners on the ground that the allegations against the accused persons are serious in nature and amounts to heinous crime and keeping in view the settled principle of law, FIR registered under Section 307 IPC and Section 25 of the Arms Act, cannot be quashed on the basis of compromise as the said act is not against an individual but amounts to an act against the Society as a whole. Learned State counsel submits that not only the charges have been framed against the accused by the Competent Court of Law, which have never been challenged on the ground that Section 307 IPC is not made out. It is further argued that in the facts and circumstances of this case, as 07 prosecution witnesses have already been examined during the trial, prayer of the petitioners may kindly be declined.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a conceded position that in the present FIR, keeping in view the allegations alleged, Section 307 IPC as well as Section 25 of Arms Act have been invoked. Not only the same have been invoked in the FIR but after investigation, keeping in view the findings of the investigating

agency, the Competent Court of Law after due application of mind, came to

the conclusion that the accused needs to be tried for offences mentioned hereinbefore i.e. Section 307 IPC and Section 25 of Arms Act.

Apart from this, after the framing of charges against the accused persons by the Competent Court of Law under the above said provisions, no grievance was ever raised by the petitioners that in the facts and circumstances of this case, Section 307 IPC or the provisions of Arms Act could not have been invoked. That being so, it does not lie in the mouth of the petitioners, who are the accused, now to contend that this Court should evaluate the acts as alleged in the FIR so as to overrule the findings of the investigating agency as well as the order framing charges, which include Section 307 IPC and Section 25 of the Arms Act and that too only on the basis of compromise between the parties and in the absence of any evidence to the said effect.

It is conceded by learned counsel for the petitioners that there is use of a firearm and there is an injury received by the victim due to the use of said firearm. That being so, this Court has to evaluate whether in the facts and circumstances of this case, the prayer of the petitioners for quashing of FIR in question can be accepted or not on the basis of compromise.

The law on the said issue stands settled by various judgments of the Hon'ble Supreme Court of India. In Criminal Appeal No. 686 of 2014 titled as ***Narinder Singh and others Vs. State of Punjab and another***, decided on 27.03.2014, the said question has been answered to the effect that the heinous crimes such as Section 307 IPC and Section 25 of the Arms Act, which are not against an individual but are acts amounting to have been

be compromised being non-compoundable. The relevant paragraph of the said judgment is as under :-

- “(I) xxxxx xxxxx xxxxx xxxxx
- (II) xxxxx xxxxx xxxxx xxxxx
- (III) xxxxx xxxxx xxxxx xxxxx
- (IV) xxxxx xxxxx xxxxx xxxxx
- (V) xxxxx xxxxx xxxxx xxxxx

(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.*

(VII) 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 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.”

Same question again came up for consideration before the Hon'ble Supreme Court of India in Criminal Appeal No. 349 of 2019 titled as ***State of Madhya Pradesh Vs. Laxmi Narayan and others***, decided on

05.03.2019. In the said case, after considering the law on the aspect,

guidelines were laid down with regard to quashing of an FIR on the basis of compromise. The relevant paragraph 13(iv) of the said guidelines is as under :-

“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 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;”

Keeping in view the settled principle of law enumerated hereinbefore, Sections 307 IPC and 25 of Arms Act have been described as heinous and serious offences and that too committed not against an individual but against the society at large. As per the judgments of ***Narinder Singh's case (supra) and Laxmi Narayan's case (supra)***, the Court has to evaluate as to what kind of injury has been suffered by the victim and whether any firearm has been used or there is a mere allegation of intention to kill due to which, Section 307 IPC has been invoked. In

likely that the conviction of the accused is possible, the Court should be very slow in accepting the plea of quashing of an FIR on the basis of the compromise. Not only this, the timing of filing the petition is also to be seen while accepting the plea for quashing the FIR, as to whether, any witnesses have been examined by the prosecution and their testimonies.

By applying the settled principle of law mentioned hereinbefore in the present case, prosecution witnesses have already been examined and there is a use of firearm and the victim has suffered the gun shot injury. That being so, this Court will not exercise the discretion in favour of the accused so as to accept the plea for quashing of the FIR in question on the basis of compromise only. The facts and circumstances of this case do not allow the acceptance of the prayer of the petitioners, being contrary to the settled principle of law.

It is made clear that this Court is not rendering any opinion on the merits of the case as to whether the petitioners are guilty or not, which will be done by the trial Court on the basis of the complete evidence, which will come on record.

Keeping in view the above, no ground is made out to accept the prayer of the petitioners as made in the present petition.

Dismissed.

December 07, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes