

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(116)

CRM-M-3867-2022

Date of Decision : March 07, 2022

Devansh @ Vansh

.. Petitioner

Versus

State of Punjab and another

.. Respondents

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ajay Gupta, Advocate, for the petitioner.

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

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed for quashing of FIR No.044 dated 01.03.2021 registered under Sections 458, 511, 506, 336 and 268 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Division No.8, District Police Commissionerate Jalandhar, Punjab, on the basis of the compromise keeping in view the affidavit dated 09.12.2021 allegedly given by the complainant-respondent No.2 namely Amandeep Kaur.

Learned counsel for the petitioner submits that the parties have compromised their dispute and therefore, the present petition may kindly be

allowed and the FIR in question may kindly be quashed.

Notice of motion.

Mr. Kirat Singh Sidhu, learned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned counsel for the respondent-State, on the instructions from ASI Gurmail Singh, submits that the present petition does not disclose the correct facts as there are total five accused in the present FIR out of which, against three accused, which include the petitioner, the proceedings with regard to declaring them as proclaimed persons, are already going on and they are evading law. Learned counsel for the respondent-State further submits that once the petitioner is not cooperating in the investigation and the investigation into the allegations is yet to complete coupled with the fact that Section 25 of the Arms Act invoked in the FIR in question, which is not compoundable and cannot be quashed even if parties compromised their dispute keeping in view the said settled principle of law, the prayer of the petitioner for quashing of the FIR in question may kindly be declined.

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

Admittedly, there are total five accused in the present case and the present petition has been filed by one accused only.

Learned counsel for the petitioner has not been to rebut the arguments that out of five accused, three accused have not joined the investigation so far and the proceedings to declare them as proclaimed

persons are already pending consideration with the competent Court of law. Learned counsel for the petitioner submits that even the proceedings against the petitioner for declaring him as a proclaimed person are in progress.

That being so, keeping in view the conduct of the petitioner, the discretionary relief as prayed in the petition cannot be allowed in his favour.

Further, Section 25 of the Arms Act has been invoked in the present case and as per the settled principle of law settled by the Hon'ble Supreme Court of India in **Criminal Appeal No. 336 of 2019 titled as State of Madhya Pradesh versus Dhruv Gurjar and another, decided on 22.02.2019** that the said offence being against the State, cannot be quashed even on the basis of the compromise. The relevant paragraph of the said judgment is as under:-

“16. At the outset, it is required to be noted that in the present appeals, the High Court in exercise of its powers under Section 482 of the Cr.P.C. has quashed the FIRs for the offences under Sections 307, 294 and 34 of the IPC and 394 of the IPC, 11/13 of M.P.D.V.P.K. Act and Sections 25/27 of the Arms Act respectively, solely on the basis of a compromise between the complainant and the accused. That in view of the compromise and the stand taken by the complainant, considering the decision of this Court in the case of Shiji (supra), the High Court has observed that there is no chance of recording conviction against the accused persons and the entire exercise of a trial would be exercise in futility, the High Court has quashed the respective FIRs.

16.1 However, the High Court has not at all considered the fact that the offences alleged were noncompoundable offences as per Section 320 of the Cr.P.C. From the impugned judgments and orders, 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 judgments and orders passed by the High Court, it appears that the High Court has mechanically quashed the respective FIRs, in exercise of its powers under [Section 482](#) Cr.P.C. 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 vs. Vikram Anantrai Doshi](#), (2014) 15 SCC 29, the Court’s principal duty, while exercising the powers under [Section 482](#) Cr.P.C. 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 at hand, the High Court has not at all taken pains to scrutinise the entire conspectus of facts in proper perspective and has quashed the criminal proceedings mechanically. Even, the quashing of the respective FIRs by the High Court in the present cases for the offences under [Sections 307, 294 and 34](#) of the IPC and 394 of the [IPC](#), 11/13 of M.P.D.V.P.K. Act and [Sections 25/27](#) of the Arms Act respectively, and that too in exercise of powers under [Section 482](#) of the Cr.P.C. is just contrary to the law laid down by this Court in a catena of decisions.

- 16.2. xxxx xxxx xxxx xxxx
- 16.3. xxxx xxxx xxxx xxxx
- 16.4. xxxx xxxx xxxx xxxx

16.5 In the case of Manish (supra), this Court has specifically observed and held that, when it comes to the question of compounding an offence under [Sections 307, 294 and 34](#) IPC (as in the appeal @ SLP(Crl.) No. 9859/2013)

along with [Sections 25](#) and [27](#) of the Arms Act (as in the appeal @ SLP(Crl.) No. 9860/2013), by no stretch of imagination, can it be held to be an offence as between the private parties simpliciter. It is observed that such offences will have a serious impact on the society at large. It is further observed that where the accused are facing trial under [Sections 307, 294](#) read with [Section 34](#) IPC as well as [Sections 25](#) and [27](#) of the Arms Act, as the offences are definitely against the society, accused will have to necessarily face trial and come out unscathed by demonstrating their innocence. 16.6 In the case of Deepak (supra), this Court has specifically observed that as offence under [Section 307](#) IPC is noncompoundable and as the offence under [Section 307](#) is not a private dispute between the parties inter se, but is a crime against the society, quashing of the proceedings on the basis of a compromise is not permissible. Similar is the view taken by this Court in a recent decision of this Court in the case of Kalyan Singh (supra).

17. xxxx xxxx xxxx xxxx

18.1 Therefore, the said decision may be applicable in a case which has its origin in the civil dispute between the parties; the parties have resolved the dispute; that the offence is not against the society at large and/or the same may not have social impact; the dispute is a family/matrimonial dispute etc. The aforesaid decision may not be applicable in a case where the offences alleged are very serious and grave offences, having a social impact like offences under [Section 307](#) IPC and 25/27 of the [Arms Act](#) etc. Therefore, without proper application of mind to the relevant facts and circumstances, in our view, the High Court has materially erred in mechanically quashing the respective FIRs, by observing that in view of the compromise, there are no chances of recording conviction and/or the further trial would be an exercise in futility. The High Court has mechanically considered the aforesaid

decision of this Court in the case of Shiji (supra), without considering the relevant facts and circumstances of the case.”

Keeping in view the totality of the circumstances noted hereinbefore, the prayer of the petitioner cannot be accepted and the same is accordingly dismissed.

March 07, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No