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

CRM-M-29154-2018

DECIDED ON: 31st OCTOBER, 2022

SATNAM SINGH AND OTHERS

PETITIONERS

VERSUS

STATE OF PUNJAB AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Bhavyadeep Walia, Advocate
for the petitioners.

Mr. Aman Dhir, DAG, Punjab.

Mr. M.M. Pandey, Advocate and
Mr. Munish Jolly, Advocate
for respondents No.2 to 4.

SANDEEP MOUDGIL, J (ORAL)

The instant petition under Section 482 Cr.P.C has been filed for quashing of FIR No. 87, dated 28.03.2018, under Sections 452, 323, 341, 506, 148 and 149 of the Indian Penal Code (for brevity, 'IPC') and Section 307 IPC added later on, registered at Police Station City Rajpura (Annexure P-1) on the basis of compromise dated 04.07.2018 (Annexure P-2) and all subsequent proceedings arising therefrom.

During the pendency of the dispute, the parties have compromised the matter and filed the present petition for quashing of FIR.

Vide order dated 20.09.2018, parties were directed to appear before the trial Court/Illaq Magistrate for recording their statements with

regard to compromise/settlement and report with regard to genuineness of compromise was called for.

The report dated 29.11.2019 has been received from learned Judicial Magistrate Ist Class, Rajpura stating that the parties have entered into a compromise voluntarily, without any pressure, coercion, threat or undue influence from any quarter and the same appears to be genuine.

Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052***, has held:-

“The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in noncompoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.

The power under Section 482 of the Cr.P.C. is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 of the Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and everlasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court

which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.”

The legal principles as laid down for quashing of the judgment were also approved by the Hon'ble Supreme Court in the matter of **'Narinder Singh & others vs. State of Punjab and another; 2014 (2) RCR (Criminal); 482.** Furthermore, the broad principles for exercising the powers under Section 482 were summarized by the Hon'ble Supreme Court in the matter of **'Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of Gujarat and another” (2017) 9 SCC 641'.**

At this stage, Mr. Aman Dhir, DAG, Punjab has relied upon the judgment of Hon'ble Apex Court in the case of **State of Madhya Pradesh v Laxmi Narayan passed in Criminal Appeal No. 349 of 2019 decided on 05.03.2019,** wherein, it has been held that 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's (supra)* should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove.

The parameters laid down in *Laxmi Narayan's case* (supra) state that the powers conferred on the High Courts under Section 482 Cr.P.C can be exercised keeping in mind the injuries sustained, nature of weapons used, etc.

The facts of the present case disclose that the injuries sustained by the complainant/injured are grievous in nature. Learned counsel for the petitioners states that the parties are neighbours and for the sake of peace, the FIR be quashed.

The petitioners are accused of committing an offence punishable under Sections 452, 323, 341, 506, 148 and 149 IPC and Section 307 IPC added later and this petition has been filed on the basis of a compromise arrived at between the parties.

The MLR asserts that it is common knowledge that the

complainant's injuries are grave in character because of the object that struck his head. In addition, the weapon used to attack him was a hammer, which is a type of sharp object and has not yet been found. From perusal, it is evident that FIR in this case was registered in the year 2018 and till date challan has not been presented, meaning thereby, that the case is still at investigation stage.

The parties have agreed to coexist peacefully in the future, so continuing the proceedings would serve no purpose. This becomes a crucial factor to take into account. The continuation of the case is probably a waste of the court's time, and the likelihood of a conviction thus appears to be remote.

In view of the peculiar facts and circumstances of the case, the Court opined that continuance of the case even after the parties have entered into a compromise would only result in persecution of the petitioners which would give rise to a failure of justice.

Hence, the present petition is allowed and the above mentioned FIR (Annexure P-1) with all subsequent proceedings arising therefrom are quashed qua the petitioners in view of compromise.

SANDEEP MOUDGIL
JUDGE

31st OCTOBER, 2022.
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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |