

242

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

CRM-M-31723-2020

DECIDED ON: 31st OCTOBER, 2022

LAKHBIR SINGH AND OTHERS

PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Harpal Singh Sidhu, Advocate
for the petitioners.

Mr. Aman Dhir, DAG, Punjab.

Mr. Shivam Malhotra, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

The instant petition under Section 482 Cr.P.C has been filed for quashing of FIR No. 131, dated 19.05.2020, under Sections 307, 447, 148, 149 and 506 of the Indian Penal Code (for brevity, 'IPC') and Sections 25 and 27 of Arms Act, 1959, registered at Police Station Sadar Patti, District Tarn Taran (Annexure P-1) on the basis of compromise (Annexure P-2) and all subsequent proceedings arising therefrom.

As per the allegations, respondent No. 2 wanted to sell his property but his in-laws did not agree with him. So for that reason, respondent No. 2 went to village Jhand for ploughing the land with his son namely Manjit Singh and brother Gurdev Singh on Tractor. At about 11:20

empty handed along-with Amandeep Singh empty handed, Mandeep Singh armed with Daang (Stick) both sons of Satnam Singh, brother-in-law, Rashpal Singh son of Lakhbir Singh armed with Daang (stick) and Swarn Singh @ Jagga armed with DBBL 12 bore gun, came there. Petitioner No.1-Lakhbir Singh raised Lalkara and said that teach them lesson from ploughing the land without their permission. Petitioner No. 5 shot a fire with an intention to kill respondent No. 2/complainant but the bullet passed above his head, he then stopped the tractor and tried to ran away. Meanwhile petitioner No.2-Amandeep Singh took a gun from petitioner No. 5 and shot direct fire on the complainant/respondent No.2 namely Joginder Singh which hit on his right arm. Thereafter, Petitioners No. 3 & 4 namely Mandeep Singh and Rashpal Singh armed with daang (stick) tried to catch his son and brother but when they raised alarm "Na Maro Na Maro" then all the accused/petitioners ran away form the spot with their respective weapons. Complainant/Respondent No. 2 i.e. Joginder Singh was taken to Civil Hospital Gharyala after arranging the vehicle, from where doctor referred him to Civil Hospital, Patti.

Learned counsel for the petitioners submits that the parties have arrived at a settlement with the intervention of respectables and buried their hatchet. It is argued that since the parties are close relatives, they have decided to keep harmony between them so that in future they are able to live with peace and love.

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

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.

Though the complainant/injured suffered a firearm injury, however, as per the MLR bearing No. 55/GKS/GYL/2020 conducted by Dr. Gurkirpal Singh, Medical Officer of Civil Hospital, Patti, the said injury is simple in nature. Learned counsel for the petitioners states that the parties are close relatives and for the sake of peace, the FIR be quashed.

Keeping in view the advanced age of the petitioners', the fact that they still have their life ahead of them, and the fact that the parties are close relatives and the injury sustained by the complainant/injured is only simple in nature, therefore, this Court is inclined to quash the FIR exercising its jurisdiction under Section 482 Cr.P.C.

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 (Annexure P-2).

SANDEEP MOUDGIL
JUDGE

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