

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

**CRM-M-36391-2018
Date of decision : 11.10.2022**

Jasdeep Singh @ Garry and others

....Petitioners

Versus

State of Punjab and another

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vivek Goel, Advocate
for the petitioners.

Mr. Madhur Sharma, Asstt. Advocate General, Punjab
for respondent No.1-State.

Mr. Vikas Garg, Advocate
for respondent No.2 to 7.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.97, dated 25.11.2013 registered for the offences punishable under Sections 295-A/436/506/427/336/148/149 of the IPC (Section 307 IPC added later on) and Section 25/27/54/59 of Arms Act, 1959 at Police Station Ajitwal, District Moga (Annexure P-1) on the basis of compromise.

2. On 24.08.2018, the following order was passed:-

“Learned counsel for the petitioners states that there is no impediment to quash the FIR for offence under Section 307 IPC and the case is covered with the law laid down by the Hon'ble Apex Court in Narinder Singh & others Versus State of Punjab and another 2014(2) R.C.R. (Criminal) 482. He further states that there is no injury of fire shot and the allegation is that the fire shot was in the air.

Notice of motion for 30.11.2018.

At this stage, Mr. Vikas Garg, Advocate, has put in appearance on behalf of respondent No.2 and filed his power of attorney, which is taken on record. He admits the factum of compromise entered between the parties.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement on 28.09.2018.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of parties on or before the next date of hearing containing the following information as well:-

- (i) Number of persons arrayed as accused in FIR;
- (ii) Whether any accused is proclaimed offender; and
- (iii) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.”

3. Pursuant to the aforesaid order, report from Judicial Magistrate 1st Class, Moga dated 06.12.2019 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“In this regard, statements of **Complainant Gurmail Singh** Age 61 years s/o Gurdas Singh resident of village Butter Kalan Distt.Moga, and that of **injured** namely **Paramjit Singh son of Mukhtiar Singh, Gurcharan Singh son of Jagdish Kumar, Bhupinder Kumar, attorney of injured Honey Kumar, Raju son of Mohan Ram and Mandeep Singh** have been recorded. On oath, they have stated that present FIR No.97 dated 25.11.2013 U/S 307,436,336,295-A,427,148,149 IPC was got registered at P.S. Ajitwal, on the instance of Complainant Gurmail Singh against **accused Jasdeep Singh, Jagtar Singh, Gurpret Singh, Ranjit Singh son of Joginder Singh, Gurwinder Singh son of Hari Singh, Harbhajan Singh son of Mohinder Singh, Pritam Singh, Shamsher Singh son of Pritam Singh, Baba Harbhajan Singh, Devinder Singh, Nachhattar Singh and Gopal Singh, all**

residents of village Dhudi Ke District Moga. Now, with the intervention of respectable of the village, that they have entered into compromise with accused and they does not want to take any action against them. They further stated that they has entered into compromise with the accused without any pressure or coercion and as such they have no objection if the above said FIR is quashed. They have also produced photocopies of their Adhar Card.”

4. Ld. Counsel appearing for respondents No.2 to 7 admits the fact of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. Counsel for the parties and have carefully gone through the records of the case.

7. After considering judgment rendered by the Apex Court in **Gian Singh vs. State of Punjab and another, 2012(10) SCC 303, State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688, Kulwinder Singh & others vs. State of Punjab & another, 2007 (3) RCR (Criminal) 1052 and Ram Gopal and another vs. State of Madhya Pradesh, 2021(4) R.C.R. (Criminal) 322 (Criminal Appeal No.1489 of 2012 decided on 29th of September, 2021)**, the proposition of law that emerges from the aforesaid decisions rendered by Apex Court and this Court is :

- (a) Power u/s 482 Cr.P.C. vested with this Court is not affected by Section 320 of the Code.
- (b) However, wider the power greater the caution.
- (c) The underlining principle while exercising such power is that it can be invoked to quash the proceedings recognizing compromise between the parties in the matters which are overwhelmingly and predominantly of civil character like commercial transactions or arising out of matrimonial relationship or family disputes.
- (d) The said power is not to be exercised in the prosecutions involving heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. as such offences are not private in nature and have a serious impact on society.
- (e) Section 482 Cr.P.C. casts duty upon the High Court to advance interest of justice as well. It is in recognition of this duty casted upon the High Court, that Apex Court held that the High Court would not refuse to quash FIR under Section 307 merely because FIR finds mention thereof. High Court can assess nature of injuries sustained, whether such injuries inflicted on vital/delicate parts of the body/nature of weapons used etc.
- (f) Such exercise at the hands of High Court would be permissible only after the evidence is collected after investigation and chargesheet is filed/charges framed during the trial. Such exercise cannot be carried out while the matter is still under investigation.
- (g) While quashing FIR in non-compoundable offences even which are of private in nature, High Court is required to consider antecedents of the accused, conduct of the accused and whether he was absconding or whether he has managed the complainant to enter into a compromise.

8. Though the present FIR has been registered for offence punishable under Section 307 IPC but this Court cannot loose sight of the fact that Section 307 has been added as the allegation against the petitioners was that they fired in the air. Thus, it is a case of no injury and the question w.r.t. intention to kill which is a *sine qua non* to constitute offence under Section 307, is highly debatable. Nevertheless, counsels further inform that in the present matter cancellation report has been filed and is pending before the concerned Court. Hence, in the considered opinion of this Court, once the parties have reconciled their differences and there is no serious allegation *viz-a-viz* offence punishable under Section 307 IPC it will be one of those cases where power under Section 482 Cr.P.C. should be exercised to uphold the peace between two parties who have decided to bury their hatchet.

9. Thus, keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that it is a fit case to exercise jurisdiction vested u/s 482 Cr.P.C. to quash the FIR as :-

- (i) The present matter does fall within the exceptions as carved out in **Laxmi Narayan's** case (supra).
- (ii) The offences are of private nature.
- (iii) The parties have compromised.
- (iv) As per the report received the compromise is said to be voluntary in its nature.
- (v) Complainant/victim has entered into compromise on his own volition.

- (vi) Fire shot was in the air.
- (vii) It is a case of no injury.
- (viii) Investigation stands completed.

10. Consequently, the petition is allowed. FIR No.97, dated 25.11.2013 registered for the offences punishable under Sections 295-A/436/506/427/336/148/149 of the IPC (Section 307 IPC added later on) and Section 25/27/54/59 of Arms Act, 1959 at Police Station Ajitwal, District Moga (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

October 11, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No