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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-24585-2022

Date of Decision: 31.05.2022

Gagandeep Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Mitul Singh Rana, Advocate,
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 482 of the Code of Criminal Procedure with a prayer for quashing of the FIR bearing No.149, dated 25.12.2021, registered under Sections 307, 325, 323 & 170 of the IPC at Police Station Chabbewal, District Hoshiarpur (Annexure P-1) with all subsequent proceedings arising therefrom on the basis of compromise dated 20.04.2022 (Annexure P-2) arrived at between the parties.

As per the FIR which was lodged on the basis of statement made by one Inderjeet Singh Garcha-Respondent No.2 that for the last 3-4 years, he is running a Zimindara Garcha Family *Dhaba* at G.T. Road Village Mukhomajara, Police Station Chabbewal. At the Dhaba, truck drivers and drivers of other vehicles stop to have their meals. On 20.12.2021, he was present in the *dhaba* along with his younger brother Gurinderjit Singh, servant Sushil Kumar and drivers of other vehicles were also present. Then at dhaba, a

Bolero Car which is used to pull heavy things came and the driver of which told him that on the Mahilpur side, at the G.T. Road near Bus Stand Jaitpur, there was a car in which two individuals were present, who after stopping them told them that they were police personnel and asked to show them the papers but they were in civil dress. They were demanding money from them and have also kept the photocopies of papers of their vehicle with them. At that time, they were in the middle of conversation that the car bearing No.PB-07-AT-9900 came from Mahilpur side and stopped at the *dhaba* which was being driven by a man with a turban. On seeing him that driver of the Bolero Car told him that this is the same person who had stopped him on the road. On which they asked him that you do not look like a police personnel from appearance and why did you stop the car and took its papers. The complainant asked his name and address on which he told his name as Gagandeep Singh son of Balwinder Singh resident of Mahilpur, and thereafter an argument started between them in relation to stopping of cars. He in a fit of rage suddenly turned his vehicle and struck him and when the complainant moved to one side in order to save himself then he again put the car in reverse and struck him 3-4 times with an intention to kill him due to which his left arm and right leg got fractured and his intimate organs also suffered injuries and there are many bruises on the rest of the body. The driver of the car ran away with the car at high speed towards Mahilpur side thereafter, the brother of the complainant arranged a vehicle and got him admitted at Civil Hospital, Mahilpur for treatment where the doctor referred him to better hospital due to having suffered more injuries and then he was taken to IVY Hospital for treatment.

Learned counsel for the petitioner has submitted that vide Annexure P-2 a compromise has been effected between the parties on 20.04.2022 and therefore, the present FIR may be quashed on the basis of the compromise. He further submitted that in order to secure the ends of justice and since no useful purpose will be served in case further prosecution is carried on in view of the compromise, the present FIR is liable to be quashed since compromise not only brings peace and harmony but also restores tranquility in the society and has also referred to judgment of this Court passed in “**Kulwinder Singh and others Vs. State of Punjab and another**”, 2007(3) RCR (Criminal) 1052 and judgment of the Hon'ble Supreme Court in “**Narinder Singh Vs. State of Punjab**” (2014) 6 SCC 466.

On the other hand, Mr. Davinder Bir Singh, learned Deputy Advocate General, Punjab, has stated that he has received an advance copy of the petition and got instructions from S.I. Rajesh Kumar in this case. He submitted that the present petition is not maintainable. He further submitted that the petitioner had committed offence which includes Section 307 of the IPC and therefore, in view of the law laid down by the Hon'ble Supreme Court in “**State of Madhya Pradesh Vs. Laxmi Narayan and others**”, 2019(2) SCC (Crl.) 706, the present petition is not maintainable particularly in view of the fact that the present case is still under investigation. He also submitted that serious injuries have been caused to the complainant and the mere fact that the compromise has been effected between the parties would not create any vested right to the petitioner for seeking the quashing of the FIR based upon the compromise.

I have heard the learned counsel for the parties.

The present is a petition filed seeking quashing of the FIR based upon compromise. The FIR was registered under Sections 307, 325, 323 & 170 of the IPC. Before proceeding further the law with regard to quashing of the FIR based upon the compromise as summed up by the Hon'ble Supreme Court in **“State of Madhya Pradesh Vs. Laxmi Narayan & Others (supra)”**, is reproduced as under:-

“13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

- i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;*
- ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;*
- iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;*
- 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;

- v) *while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise*

between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

In the present case, the allegations against the petitioner were that he was demanding money from various people by impersonating as police personnel as per the FIR and when the complainant had opposed the same and entered into an argument then he was seriously injured by the petitioner. When he was admitted to the Civil Hospital, the doctor referred him for a better hospital since he had suffered more injuries and thereafter, the complainant was taken to IVY Hospital for treatment. The offences include Section 307 of the IPC as well. As per the law laid by the Hon'ble Supreme Court in “**State of Madhya Pradesh Vs. Laxmi Narayan & Others (supra)**” when the matter is at the investigation stage and the offence pertains to Section 307 IPC, then FIR cannot be quashed based upon the compromise. However, in some cases where on the face of it, it can be seen that no offence under Section 307 IPC is made out, then in those exceptional cases even FIR under Section 307 IPC can also be quashed based upon the compromise. However, in the present case, the facts suggest that the present case does not fall in any exceptional circumstance and therefore, as per the *ratio* in the aforesaid judgment in “**State of Madhya Pradesh Vs. Laxmi Narayan & Others (supra)**”, the present FIR cannot be quashed based upon compromise. Apart from the same, a perusal of the compromise (Annexure P-2) would show that it has been stated that it was a misunderstanding between the parties which has since been resolved but nowhere it has been stated that the incident did not take place.

Therefore, this Court is of the considered view that there is no ground made out for quashing of the present FIR based upon compromise. Consequently, finding no merit in the present case, the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

31.05.2022
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes |