

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

126

CRM-M-25968-2022

Date of Decision : **July 20, 2022**

JASKARAN SINGH AND ORS

.....Petitioners

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Varinder Basa, Advocate for
Mr. Karanjit Singh, Advocate
for the petitioners.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.40 dated 17.4.2022, under Sections 307, 379B, 148, 149, 427 IPC and Sections 25, 27 of Arms Act, registered at Police Station Jhabal, District Tarn Taran based upon compromise (Annexure P-1) and all subsequent proceedings arising therefrom.

As per the allegations contained in the FIR which was lodged on the basis of the statement made by one Balbir Singh @ Bala, who is the respondent No.2 in the present case, on 17.4.2020 his brother-in-law, namely, Harwinder Singh son of Tarsem Singh, resident of Chabhal after dropping him on their Arjun tractor at Wadhan Medical Store Chabhal went to Baljeet Tyre Wala near Bhikhiwind road to get the filter of the tractor cleaned, then at about 4 p.m., said Harwinder Singh called him and told that 14/15 persons riding on three cars, one Innova Crysta colour silver, second Bolero grey coloured and one Ciaz car

colour white came to him and took away the tractor after firing a shot in air towards Bhikhiwind road. Thereafter, he alongwith one Gurpreet Singh @ Gopi son of Jagdish Singh chased them and stopped them in front of Bohri Sahib Gurdwara with the tractor and upon seeing them, they identified Lovepreet Singh @ LP (petitioner No.2), Manpreet Singh @ Manna (petitioner No.3), Jaskaran Singh (petitioner No.1) and one other person, namely, Gola Sandhu who were armed with weapons and with intention to kill them, they started firing at them and they saved their lives by hiding behind the tractor and thereafter the driver of the tractor left the tractor and ran away from the spot. Thereafter, rest of the people in these three vehicles also fired shots which hit the rear tyre and body of the tractor and the front tyre and then on seeking the huge gathering on the spot due to hue and cry, all these persons fled away.

The learned counsel for the petitioners has submitted that the matter has been compromised between the parties vide Annexure P-2 and no useful purpose will be served if the further prosecution is carried on in the present case and, therefore, it will be in the interest of justice, to quash the FIR based upon compromise.

Mr. Davinder Bir Singh, DAG, Punjab has submitted that he has received an advance copy of the present petition and he has also received instructions from ASI Harbhajan Singh, who is also present in the Court today. He submitted that it is a case where the present petition for quashing based upon compromise is not maintainable in view of the law down by the Hon'ble Supreme Court in **State of Madhya Pradesh Vs. Laxmi Narayan and Others 2019 (2) SCC (CrI.) 706** since the

offences involved in the present case are Sections 379B, 148, 149, 427 IPC apart from Section 307 IPC and the Arms Act and the allegations in the FIR are pertaining to firing shots from the pistol with an intention to kill. He submitted that the matter is still at the investigation stage and, therefore, the present petition is devoid of any merit and is also not maintainable in view of the law laid down by the Hon'ble Supreme Court in Laxmi Narayan's case (Supra). He further submitted on instructions that infact there are four accused in the present case out of which three of them have filed the present petition and the fourth one has gone abroad and he has not filed the present petition. He submitted that all the three petitioners have not even joined the investigation and rather they are absconding from the time FIR was registered which is about 3 months ago and the police on its own investigation has already recovered 8 empties of .39 pistol from the spot and the pistol used in the present case appears to be a country made pistol. He further submitted that in view of the aforesaid facts and circumstances and in view of the law laid down by the the Hon'ble Supreme Court in Laxmi Narayan's case (Supra), the present petition is liable to be dismissed.

I have heard the learned counsels for the parties.

The law with regard to quashing of the FIR based upon compromise is no longer *res-integra*. The Hon'ble Supreme Court has laid down various parameters in this regard especially when the offence pertains to Section 307 IPC in Laxmi Narayan's case (Supra). The relevant portion is reproduced as under:-

“13. (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;”

In the present case the offences are pertaining to Sections 379B, 148, 149, 427 IPC apart from Section 307 IPC and the Arms Act.

The FIR was registered on 17.4.2022 and till date as per the learned State

counsel, the petitioners have not joined the investigation. The FIR is still at the investigation stage. As per the learned State counsel, 8 empty cartridges were also recovered on the spot. The factum of parties entering into a compromise would itself not mean *per-se* that the petitioners are entitled for getting the relief of quashing of FIR based upon compromise especially when the matter is pertaining to Section 307 IPC and Arms Act and it is still at the investigation stage and the petitioners are not even cooperating with the investigation process.

In view of the aforesaid facts and circumstances, finding no merit in the present petition, the same is, hereby, dismissed.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

July 20, 2022

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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No