

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

Date of decision-02.03.2022

1. CRM-M-30277-2021

Parkash Kaur and others	Vs.	...Petitioners
State of Punjab and others		...Respondents

2. CRM-M-41428-2020

Jaswinder Singh @ Rinku and others	Vs.	...Petitioners
State of Punjab and others		...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. L.M.Gulati, Advocate for the petitioners
in CRM-M-30277-2021.
Mr. Parveen Chauhan, Advocate for the petitioner
in CRM-M-41428-2020.
Mr. Ramdeep Partap Singh, DAG, Punjab.

MANOJ BAJAJ, J.

Petitioners have filed these separate petitions under Section 482 Cr.P.C for quashing of FIR No.116 dated 11.05.2020 (Annexure P-1) under Sections 307, 323, 148 and 149 Indian Penal Code, 1860 and Sections 25, 27, 54 and 59 Arms Act, 1959 registered at Police Station Sadar Patti, District Tarn Taran as well as the cross case registered vide G.D.No.017 dated 27.08.2020 under Sections 452, 326, 336, 323, 427, 148 and 149 IPC and Sections 25 and 27 Arms Act, 1959 in above FIR on the basis of compromise deed (Annexure P-3)

The FIR was registered on the statement of Jaswinder Singh son of Samma Singh, wherein it is alleged that he works as a labourer and has five brothers and sisters. On 10.05.2020, when he returned from his work, at about 6/7.00 PM and was standing in front of his house, then Major Singh

started abusing him and raised exhortation, whereupon Gurwinder Singh son of Major Singh and his neighbours Lovepreet Singh, Vishal Singh, Surjit Singh and other accused persons came forward and pelted bricks bats upon him. In the meantime, Major Singh took out his licensed rifle from his home and fired upon complainant, which caused injury to him, Jobanpreet Kaur and her father, who were also standing there and the assailants also caused injuries to complainant's father. When complainant and other victims raised alarm, then all the assailants ran away from the spot with their respective weapons.

The cross case bearing GD No.017 dated 27.08.2020 was registered on the statement of Prakash Kaur wife of Major Singh, who alleged that on 10.05.2020 at about 7-8 PM, when her nephew Gurlal Singh came to her house for getting milk on his motorcycle, then Laba son of Gurdeep Singh, who was armed with 12 bore rifle, Jaswinder Singh, Vijay Singh, Angrej Singh, Satnam Singh along with other 5-6 accused persons who were armed with kirpan, dnag, sticks etc came there. They tried to snatch motorcycle of Gurlal Singh, upon which Gurlal Singh ran away and entered in our house. Complainant's husband-Major Singh and her nephew Jatinder Singh were also present in the house and all accused persons also forcibly entered in to complainant's house. In the meantime, Laba Singh raised exhortation to catch hold Jitendra Singh because he was helping Gurlal Singh, whereupon Jaswinder Singh gave kirpan blow on complainant's nephew which hit on his right arm and Laba Singh fired from his rifle. All accused persons gave injuries with their respective weapons to Jatinder Singh and when he was lying down, they all hit him with kicks and blows. When Jatinder Singh and complainant's husband raised alarm, then

all the assailants ran away from the spot with their respective weapons after extending threats to the them.

Learned counsel for both the sides have referred to Annexure P-3 to contend that the compromise has been arrived at between the parties with the intervention of the respectables and the dispute has been amicably settled. According to them, the prosecution of the petitioners would be a futile exercise and pray for quashing of FIR as well as cross version recorded through GD No.17 dated 27.08.2020.

On the other hand, learned State counsel assisted by SI Nirmal Singh has opposed the prayer on the ground that the offences committed are serious in nature and investigation is in progress. According to him, in such type of heinous crimes, compromise is meaningless and prays for dismissal of the petition.

After hearing learned counsel for the parties, this Court finds that the solitary ground of compromise raised in the petition is not worth acceptance. At this stage, it will be useful to refer the decision in “**The State of Madhya Pradesh Vs. Laxmi Narayan and others**”, 2019 AIR (SC) 1296, the Hon'ble Supreme Court has laid down the principles for quashing of the criminal proceedings in non-compoundable offences by exercising inherent powers under Section 482 Cr.P.C. The relevant portion of the judgment is extracted below:

“However, the High Court has not at all considered the fact that the offences alleged were non-compoundable offences as per Section 320 of the Cr.P.C., 1973 from the impugned judgment and order; it appears that the High Court has not at all considered the relevant facts and circumstances of the case, more particularly the seriousness of the offences and its social impact. From the impugned judgment and order passed by the High Court, it appears that the High Court has mechanically quashed the FIR, in exercise of its powers under Section 482

*Cr.P.C., 1973 the High Court has not at all considered the distinction between a personal or private wrong and a social wrong and the social impact. As observed by this Court in the case of **State of Maharashtra v. Vikram Anantrai Doshi, 2014 (4) R.C.R (Criminal) 381: (2014) 15 SCC 29**, the Court's principal duty, while exercising the powers under Section 482 Cr.P.C., 1973 to quash the criminal proceedings, should be to scan the entire facts to find out the thrust of the allegations and the crux of the settlement. As observed, it is the experience of the Judge that comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence."*

In the case of **Gian Singh V. State of Punjab 2012(4) R.C.R. (Criminal) 543: (2012) 10 SCC 303**, the Apex Court has observed and held as under:

"The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences."

From the aforesaid observations of Hon'ble the Apex Court, it is apparent that the offences with serious magnitude and gravity, having a serious impact on the society, have been excluded from the purview of

powers to be exercised under Section 482 Cr.P.C. As per allegations in the FIR, the assailants were armed with firearm weapons, who fired gunshots and caused injuries to the victims. Therefore, the compromise relied upon by the petitioners is rejected.

Considering the seriousness of the offence, but without expressing any opinion on the merits of the prosecution case, this Court does not find any ground to exercise powers under Section 482 Cr.P.C for quashing of the criminal proceedings on the sole ground of compromise.

Both petitions are dismissed.

(MANOJ BAJAJ)
JUDGE

02.03.2022
vanita

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