

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

CRM-M-39057-2021

Date of Decision:-18.05.2022

Daler Singh & Anr.

.....Petitioners.

Versus

State of Punjab & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Shivam Joshi, Advocate for Petitioners.

Mr. Sidakmeet Singh Sandhu, AAG Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition is for quashing of FIR No.123 dated 16.11.2017 (Annexure P-1) under Sections 307, 34 IPC and Sections 25, 27, 54, 59 of Arms Act registered at Police Station Kathunangal, District Amritsar Rural and all subsequent proceedings arising therefrom on the basis of compromise dated 17.03.2020 (Annexure P-2 & Annexure P-3) arrived at between the parties.

The Counsel for the petitioners submits that a compromise has been effected between the parties i.e. petitioners on the one hand and the complainant party on the other hand. He contends that Jagroop Singh has since died. As per compromise, affidavits were furnished by Mukhtiar Singh and Jaspinder Singh, respondent nos.2 & 3 to the effect that in fact

Jagroop Singh had inflicted the gunshot injuries and not Daler Singh as had been stated in the FIR. It is thus contended that once the matter has been compromised and the person who has been attributed the injury attracting Section 307 IPC as per the affidavit has died, no useful purpose would be served by continuing the trial in the present case and thus FIR itself ought to be quashed.

I have heard learned Counsel for the parties.

In the case of *State of Madhya Pradesh Vs. Laxmi Narayan & Ors. (2019)5 SCC 688* the Hon'ble Supreme Court has held 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 view of the above, an FIR under Section 307 IPC read with the provisions of Arms Act cannot be quashed on the basis of compromise effected between the parties, even though the affidavits of compromise state that Jagroop Singh (since deceased) is the assailant and not Daler Singh as per the FIR moreso when gunshot injuries have been received by the injured persons.

Thus the present petition seeking quashing of FIR No.123 dated 16.11.2017 (Annexure P-1) under Sections 307, 34 IPC and Sections 25, 27, 54, 59 of Arms Act registered at Police Station Kathunangal, District Amritsar Rural and all subsequent proceedings arising therefrom on the basis of compromise dated 17.03.2020 (Annexure P-2 & Annexure P-3) aforementioned on the basis of compromise is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

May 18, 2022
Vinay

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