

CRM-M-45846-2021

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

CRM-M-45846-2021

Date of decision:07.09.2022

Mohd. Ashraf alias Mirch and others

...Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. P.S.Dhaliwal, Advocate for
Mr. Mohd. Yousaf, Advocate,
for the petitioners.

Ms. Monika Jalota, Sr. DAG, Punjab.

Mr. Abdul Aziz, Advocate and
Mr. Pradeep Singh, Advocate,
for respondents No.2 and 3.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioners seek quashing of FIR No.77 dated 07.07.2021, registered under Sections 307, 452, 436, 323, 148 and 149 IPC, at Police Station City-2 Malerkotla, District Malerkotla, along with all the subsequent proceedings arising therefrom, on the basis of compromise dated 28.08.2021 (Annexure P-4).

Learned counsel for the petitioners submits though the above noted FIR was registered under Section 307 IPC, yet the fact remains that as per the report of the Medical Officer (Annexure P-9), injuries No.1 to 4 on the person of respondent No.3, have been declared simple in nature. In support of his contentions, he relies upon the judgment passed by Hon'ble

Supreme Court in State of Madhya Pradesh vs Laxmi Narayan and Others,

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2019 (2) RCR (Criminal) 255, a relevant extract of which reads as under:-

“13

(i)

(ii)

(iii)

(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*

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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.....”

Vide order dated 10.05.2022 passed by this Court, the trial Court/Illaq Magistrate had been directed to record the statements of the parties with regard to the genuineness and authenticity of the compromise.

In compliance thereof, the learned Addl. Sessions Judge, Sangrur, has submitted a report, vide letter dated 05.09.2021, indicating that the parties had appeared before her and got recorded their respective statements with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is genuine and without any pressure or coercion from any corner.

The Hon'ble Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052*** and Hon'ble Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102*** observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

The Hon'ble Apex Court in the case of ***Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543*** has held as under:-

“57. 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 F.I.R. may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

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The same view has also been reiterated by Hon'ble the Apex Court in case *Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482*.

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, the present petition is allowed. FIR No.77 dated 07.07.2021, registered under Sections 307, 452, 436, 323, 148 and 149 IPC, at Police Station City-2 Malerkotla, District Malerkotla, and all the subsequent proceedings arising therefrom, are quashed qua the petitioners on the basis of compromise dated 28.08.2021 (Annexure P-4), subject to them depositing the costs of Rs.15,000/- with Shri Guru Granth Sahib Sewa Society (Regd.), opposite New Public School, Sector-18, Chandigarh.

Needless to say that the parties shall remain bound by the terms of compromise and their statements made in the Court below.

07.09.2022
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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