

CRM-M-28215-2021 (O&M)

122

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

**CRM-M-28215-2021 (O&M).
Decided on: March 21, 2022.**

Bakhsis Singh and another

.. Petitioners

VERSUS

State of Punjab and another

.. Respondents

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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**PRESENT Mr.Tarun Singla, Advocate,
for the petitioners.**

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. seeking quashing of cross version recorded vide DDR No.28 dated 13.6.2020, under Sections 307 and 34 IPC, 1860 and under Sections 25, 27/54/59 of the Arms Act, 1959, at Police Station Balianwali, District Bathinda (Annexure P2) and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P4) as well as sworn affidavit (Annexure P-5).

CRM-M-28215-2021 (O&M)

As per the DDR (Annexure P-2), it has been stated by the complainant that when he reached near the bridge of drain, then from the front Bakshish Singh son of Visakha Singh and Guninder Singh alias Raja son of Govind Singh, on Ford tractor were standing on the passage near the motor of Manjit Singh son of Nar Singh. Bakshish Singh was standing on the ground whereas Guninder Singh alias Raja by reversing the tractor trolley put the same on the road. After alighting from the vehicle the complainant asked them to park the tractor trolley in the side. Then Guninder Singh @ Raja by raising lalkara said that Bakshish, let us teach lesson to Bhola for getting registered a false case against us. On saying so Bakshish Singh took out revolver from his dab and with intention to kill fired three shots towards the complainant. One shot passed over the complainant, one shot glazed passed the right side of stomach of complainant and another shot hit right foot of the complainant. He raised raula of marta marta then one Dharmender Singh came there and in order to save the complainant by raising raula he alighting from the vehicle. Then aforesaid two persons who are petitioners in the present case flew away from the spot.

Learned counsel for the petitioners has submitted that the present petition has been filed for quashing of above mentioned DDR based upon compromise which was ultimately effected between the parties with the intervention of the respectable. He submitted that this DDR was registered as a cross-version for registration of the FIR against the private respondents but according to the learned counsel for the

CRM-M-28215-2021 (O&M)

petitioners that FIR has since been recommended for cancellation vide Annexure P-3. He submitted that although the offences involved in the present case pertain to Section 307 IPC as well as under Sections 25, 27/54/59 of the Arms Act, but once the matter has been settled between the parties amicably then no useful purpose would be served in case the further prosecution is carried out and it would be in the interest of justice, if the DDR is quashed based upon compromise. He submitted that even as per the MLR (Annexure P-6), the injury was on the non-vital part of the body of the complainant i.e. on the right foot and therefore, there is no bar to quash the DDR based upon compromise even if the offences involved are under Section 307 IPC and under Sections 25, 27/54/59 of the Arms Act. He submitted that present DDR is still at the investigation stage and challan/report under Section 173 (2) Cr.P.C. has not been presented as yet.

I have heard the learned counsel for the petitioners.

Prayer in the present petition is for quashing of aforementioned DDR based upon compromise. The offences involved in the present case include Section 307 IPC as well as Sections 25, 27/54/59 of the Arms Act. As per the allegations contained in the FIR, three shots were fired out of which one had skipped away from the stomach and another had hit on the foot of the respondent No.2. The investigation of the case has not been completed and no report under Section 173 (2) Cr.P.C. has been presented by the police as yet. According to the learned counsel for the petitioner the cross FIR has since been recommended to be cancelled which was lodged by the father of petitioner No.1.

The law with regard to the quashing of FIR based upon compromise when the offence involves Section 307 IPC, is no longer res integra. The Hon'ble Supreme Court in **State of Madhya Pradesh Versus Laxmi Narayan and others, 2019 (2) RCR (Crl.) 255**, held that normally FIR involving offence under Section 307 IPC should not be quashed based upon compromise since it is not only a serious offence but also a heinous offence. However, an exception has been carved out to the effect that in certain cases depending upon the facts and circumstances of a particular case where on gathering of the material after the investigation, it can be seen that on the face of it, no offence under Section 307 IPC is made out, then discretion can be exercised by the High Court in exercise of powers under Section 482 Cr.P.C. for the purpose of quashing of the FIR/complaint even if Section 307 IPC is involved. It has been further observed by the Hon'ble Supreme Court that such discretion is to be exercised only when sufficient material has been gathered after the investigation and report under Section 173 Cr.P.C. has been presented and charges have been framed but when the matter is at the investigation stage, such aforesaid discretion is not required to be exercised. The relevant extract of aforesaid judgment 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.”

The facts and circumstances of the present case would show that as per the learned counsel for the petitioner, the case is still at the investigation stage. No report under Section 173 (2) Cr.P.C. has been presented as yet. Allegedly there were three shots fired out of which one

shot skipped the stomach of the injured and the other had hit on the foot. Further not only Section 307 IPC but even the provisions of Sections 25, 27/54/59 of the Arms Act are also involved. Therefore, in view of the aforesaid law laid down by the Hon’ble Supreme Court in **Laxmi Narayan and others (supra)**, this Court is of the view that it is not a fit case to quash the FIR based upon compromise. Consequently, 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.

March 21, 2022.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

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