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

**CRM-M-49327-2021
Date of Decision: 20.01.2022**

Ajit Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Kapila, Advocate,
for the petitioners.

Mr. Sandeep Singh Deol, DAG, Punjab.

None for the complainant.

(Through Video Conferencing)

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed for quashing of the FIR No.127, dated 24.06.2021, under Sections 307, 323, 452, 506, 148 and 149 of the IPC (Section 326 of the IPC and Sections 25/27 of the Arms Act added subsequently, while deleting Section 324 of the IPC), at Police Station Civil Lines, Batala, Police District Batala, District Gurdaspur, and all the subsequent proceedings arising therefrom, on the basis of compromise dated 05.07.2021 arrived at between the parties, a copy of which has been appended as Annexure P-3.

Learned counsel appearing on behalf of the petitioners argues that the fire arm injury, which has been suffered by victim, is on the right

hip of his arm due to which, Section 307 of the IPC and the provisions of

the Arms Act have have been invoked. He further submits that though the investigation is still under progress, and as the parties have compromised their dispute, the present FIR may kindly be quashed on the basis of compromise between the parties.

No one has appeared on behalf of the complainant to support the present petition for quashing of the FIR in question on the basis of compromise.

Learned State counsel submits that prayer of the petitioners for quashing of FIR is not maintainable keeping in view the settled principle of law for the reason that the Sections of Arms Act, which have been invoked in the FIR, cannot be compromised as the said violation is not only against the complainant but it is also against the State. He further contends that similarly, keeping in view the facts and circumstances of this case, where the victim has received fire-arm injury, though the same is on his hand, but keeping in view the intention of the accused as Section 307 of the IPC has been invoked, the same is also not compoundable. Learned State counsel also submits that as the investigation is not over, even otherwise, the present petition is not maintainable and the same is liable to be dismissed.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, in the FIR, Sections 307 and 326 of the IPC as well as Sections 25/27 of the Arms Act have been invoked. The law on the said aspect as to whether, the FIR, wherein the above-stated provisions have been invoked, cannot be quashed on the basis of compromise is well settled.

The Hon'ble Supreme Court of India in **Criminal Appeal**

No.860 of 2015 titled as “*State of M.P. Vs. Manish and others*” has held that the offence punishable under Section 307 of the IPC as well offences under the Arms Act are the offences against society and the concerned parties cannot be allowed to compromise the said disputes. The relevant paragraphs of the said judgment is as under:-

“ xx xx xx

6. *The Three-Judge Bench decision in Gian Singh (supra) is an illuminating judgment on this issue. In paragraph 61 ultimately the position has been set out in clear terms as under:-*

*“31. The position that merges 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 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. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on a 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 personal in nature and the **parties** have resolved their entire dispute. In this category of cases, the High Court may **quash** the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to **quash** the criminal proceeding.”*

(emphasis added)

7. When we apply the principles set down therein, it can be stated that when it comes to the question of compounding an offence under Sections 307, 294 and 34 I.P.C. along with **Sections** 25 and 27 of the Arms Act, by no stretch of imagination, it can be held to be an offence as between the **private parties** simpliciter. Inasmuch as such offences will have a serious impact on the society at large, it runs beyond our comprehension to state that after the commission of such

8. *In the circumstances, the High Court unfortunately having failed to appreciate the said legal position, the impugned order cannot be sustained. We are, therefore, convinced that in a situation where the **private** respondents herein are facing trial for offences under **Sections** 307, 294 read with 34 IPC as well as **Sections** 25 and 27 of the Arms Act, the cases pending trial before the Court in Criminal Case No.2602 of 2013, as the offences are definitely as against the society, the **private** respondents will have to necessarily face trial and come out unscathed by demonstrating their innocence. The impugned order is, therefore, set aside and the Trial Court is directed to proceed with the trial in accordance with law.”*

“ xx xx xx

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integrity of this document
High Court, Chandigarh

appeals, the High Court in exercise of its powers under [Section 482](#) of the Cr.P.C. has quashed the FIRs for the offences under [Sections 307, 294 and 34](#) of the IPC and 394 of the [IPC](#), 11/13 of M.P.D.V.P.K. Act and [Sections 25/27](#) of the Arms Act respectively, solely on the basis of a compromise between the complainant and the accused. That in view of the compromise and the stand taken by the complainant, considering the decision of this Court in the case of Shiji (supra), the High Court has observed that there is no chance of recording conviction against the accused persons and the entire exercise of a trial would be exercise in futility, the High Court has quashed the respective FIRs.

16.1 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. From the impugned judgments and orders, 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 judgments and orders passed by the High Court, it appears that the High Court has mechanically quashed the respective FIRs, in exercise of its powers under [Section 482](#) Cr.P.C. 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 vs. Vikram Anantrai Doshi](#), (2014) 15 SCC 29, the Court's principal duty, while exercising the powers under [Section 482](#) Cr.P.C. 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 at hand, the High Court has not at all taken pains to scrutinise the entire conspectus of facts in proper perspective and has quashed the criminal proceedings mechanically. Even, the quashing of the respective FIRs by the High Court in the present cases for the offences under [Sections 307, 294 and 34](#) of the IPC and 394 of the

IPC, 11/13 of M.P.D.V.P.K. Act and Sections 25/27 of the Arms Act respectively, and that too in exercise of powers under Section 482 of the Cr.P.C. is just contrary to the law laid down by this Court in a catena of decisions.

16.5 In the case of Manish (supra), this Court has specifically observed and held that, when it comes to the question of compounding an offence under Sections 307, 294 and 34 IPC (as in the appeal @ SLP(Crl.) No. 9859/2013) along with Sections 25 and 27 of the Arms Act (as in the appeal @ SLP(Crl.) No. 9860/2013), by no stretch of imagination, can it be held to be an offence as between the private parties simpliciter. It is observed that such offences will have a serious impact on the society at large. It is further observed that where the accused are facing trial under Sections 307, 294 read with Section 34 IPC as well as Sections 25 and 27 of the Arms Act, as the offences are definitely against the society, accused will have to necessarily face trial and come out unscathed by demonstrating their innocence.

18.1 Therefore, the said decision may be applicable in a case which has its origin in the civil dispute between the parties; the parties have resolved the dispute; that the offence is not against the society at large and/or the same may not have social impact; the dispute is a family/matrimonial dispute etc. The aforesaid decision may not be applicable in a case where the offences alleged are very serious and grave offences, having a social impact like offences under Section 307 IPC and 25/27 of the Arms Act etc. Therefore, without proper application of mind to the relevant facts and circumstances, in our view, the High Court has materially erred in mechanically quashing the respective FIRs, by observing that in view of the compromise, there are no chances of recording conviction and/or the further trial would be an exercise in futility. The High Court has mechanically considered the aforesaid decision of this Court in the case of Shiji (supra), without considering the relevant facts and circumstances of the case.

xx xx xx”

Keeping in view the above settled principle of law, the FIR wherein Section 307 has been invoked and the victim has received fire-arm injury and the violation of the provisions of Arms Act has also been alleged, the same cannot be quashed on the basis of compromise between the concerned parties, as such offences are not limited to the parties concerned but are also against the society. The case of the petitioners is covered against them by the settled principle of law enunciated hereinbefore, hence their prayer for quashing of the present FIR on the basis of compromise cannot be accepted.

The submission of learned counsel for the petitioners that a co-ordinate Bench of this Court while passing order in CRM-M-3615-2019 titled as “*Janak Raj and others Vs. State of Punjab and another*”, has allowed the quashing of FIR where Section 307 of the IPC and the provisions of the Arms Act were invoked on the basis of compromise cannot be accepted as the said case is not applicable in the facts and circumstances of this case. Even otherwise, once the Hon'ble Supreme Court of India has already settled a principle of law, the same has to be made applicable.

Keeping in view the above, no ground is made out to exercise the jurisdiction by this Court to accept prayer of the petitioners for quashing of the present FIR on the basis of compromise between the parties.

Present petition is dismissed on merits.

20.01.2022

Apurva

(HARSIMRAN SINGH SETHI)
JUDGE