

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

CRM-M-3772-2023

Date of reserve:21.09.2023

Date of Pronouncement:28.09.2023

Santram and another

...Petitioners

VS.

State of Haryana and others

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Rao Ajender Singh, Advocate
for the petitioners.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

Mr. Ajeet Pal Singh Pakka, Advocate
for the complainant.

N.S.Shekhawat J. (Oral)

1. The petitioners have filed the present petition under Section 482 Cr.P.C. with a prayer to quash FIR No.66 dated 18.03.2018 registered under Sections 148, 149, 323, 307, 427, 506 of IPC and Section 25 of Arms Act (Section 325 IPC added later on) at Police Station Bawal, District Rewari (Annexure P-1) and all other subsequent proceedings arising therefrom on the basis of compromise deed dated 17.01.2023 (Annexure P-2).

2. The FIR in the present case was got registered by Jai Singh son of Subh Ram, respondent No.2 and as per him, at about 1.30 p.m. on 18.03.2018, the complainant alongwith his family members were working in the fields. In the meantime, Krishan Singh, Giri Raj, Munni Lal, Jaswant, Santram and

Jeetram, all residents of the same village, reached there and started beatings the complainant side. Jeetram, Jaswant and Santram opened fire and the complainant side rescued themselves behind a tractor. As per the allegations, Bhim Singh, brother of the complainant sustained a gun shot injury on his left leg and rest of the injured also sustained simple injuries. With these broad allegations, the FIR in the present case was registered against the petitioners and three others. Still further, as per the prosecution story, Bhim Singh had sustained a gunshot injury on his left leg and Section 307 IPC was ordered to be added in the present case. In fact Bhim Singh had suffered the following injuries:-

- i) *Punctured wound of size 1 x 1 cm x bone deep on middle of left leg. Fracture of left leg. Fresh bleeding present. Advised x-ray left leg and ortho opinion.*
- ii) *Lacerated wound of size 4 cm 2 cm x 1 cm on right partial region. Fresh bleeding present. Advised x-ray skull.*
- iii) *Lacerated wound of size 3 cm 2 cm x 1 cm on right parieto occipital region. Fresh bleeding present. Advised x-ray skull.*

3. It also requires mention that the police had added the offence under Section 325 IPC also on the basis of the injury suffered by Bhim Singh. Another injured, namely, Jagram, had also sustained simple injuries and did not suffer any grievous or any other injury.

4. Learned counsel for the petitioners submitted that FIR has been got registered by respondent No.2 against the petitioners, but during the pendency of the prosecution, the compromise had been effected with the petitioners only. Still further, a compromise deed dated 17.01.2023 (Annexure P-2) was also executed between the parties. Learned counsel further submits that in fact, the

petitioners and respondent No.2/complainant are cousins and they had resolved all their disputes amongst each other and after the compromise, they were living peacefully in the village. Learned counsel further submits that in the present case, the matter has been compromised between the parties and a compromise deed dated 17.01.2023 (Annexure P-2) has already been filed alongwith the present case. Learned counsel further submitted that even the offence under Section 307 IPC has been wrongly added in the present case and the injury suffered by Bhim Singh, only attracted the offence under Section 325 IPC. Still further, the injury suffered by Bhim Singh was on a non-vital part of the body and the FIR and all subsequent proceedings could be quashed on the basis of the compromise.

5. Vide interim order dated 07.07.2023, this Court had directed the parties to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of four weeks.

6. Pursuant to aforesaid order, the parties have appeared before the Additional Civil Judge (SD)-Cum-SDJM, Bawal and got their statements recorded. Report dated 20.09.2023 has been received whereby after recording the statements of the parties, the Court below has shown its satisfaction that the compromise is genuine, voluntarily and without any pressure.

7. I have heard learned counsel for the parties and perused the record.

8. It has held by the Hon'ble Supreme in the matter of **“State of Madhya Pradesh Vs. Laxmi Narayan and others”, 2019 (2) RCR (Criminal) 255** as under:-

“12. Now so far as the conflict between the decisions of this Court in the cases of Narinder Singh (supra) and Shambhu

Kewat (supra) is concerned, in the case of Shambhu Kewat (supra), this Court has noted the difference between the power of compounding of offences conferred on a court under Section 320 Cr.P.C., 1973 and the powers conferred under Section 482 Cr.P.C., 1973 for quashing of criminal proceedings by the High Court. In the said decision, this Court further observed that in compounding the offences, the power of a criminal court is circumscribed by the provisions contained in Section 320 Cr.P.C., 1973 and the court is guided solely and squarely thereby, while, on the other hand, the formation of opinion by the High Court for quashing a criminal proceedings or criminal complaint under Section 482 Cr.P.C., 1973 is guided by the material on record as to whether ends of justice would justify such exercise of power, although ultimate consequence may be acquittal or dismissal of indictment. However, in the subsequent decision in the case of Narinder Singh (supra), the very Bench ultimately concluded in paragraph 29 as under:

"29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve 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. Similarly, for the offences alleged to have been committed under special statute like the 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.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. 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 proving 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. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show

benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime."

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 of-

fences 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 impart 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.”

9. The Hon'ble Supreme Court has held in the matter of “**Narinder Singh and others Vs. State of Punjab and another**”, 2014(2) RCR (Criminal) 482, as under:-

“(vi) Offences under Section 307 I.P.C. would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 I.P.C. 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 I.P.C. is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 I.P.C. 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. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances

of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.”

10. From the above referred judgments passed by the Hon'ble Supreme Court, it is apparent that each case has to be decided by this Court on its own merits. While exercising the inherent powers, this Court has to examine whether the possibility of conviction is bleak and the continuation of the proceedings would put the accused to great oppression and prejudice and would result in futility. No doubt, the offence under Section 307 IPC falls under the category of heinous offences and generally, it has to be treated like an offence against the State/society. However, the relief of quashing of the FIR under 307 IPC cannot be denied to a petitioner only on the ground that the police had added the offence under Section 307 IPC in the FIR. This Court is empowered to look into the nature of injury sustained by the victim and as also the fact as to whether the injury was inflicted on the vital parts of the body. Apart from that, this Court has also to look into the social background of the accused as well as the relationship between the parties. In the present case, Bhim Singh is stated to have suffered an injury on his left leg, which is a non-vital part of the body. Apart from that, the police had already invoked the provision of Section 325 IPC on account of the said injury. However, later on, the police added the offence under Section 307 IPC also on the basis of the said injury also. Apart

from that, it is also apparent from the record that the petitioners and respondent No.2 are cousins and they were all rustic villagers and had settled all their disputes. Thus, the continuation of trial proceedings would be an abuse of the process of law.

11. Consequently, keeping in view the report dated 20.09.2023, submitted by Additional Civil Judge(SD)-cum-SDJM, Bawal and the law laid down by the Hon'ble Supreme Court in the matter of *State of Madhya Pradesh's case (Supra)* and *Narinder Singh's case (Supra)*, FIR No.66 dated 18.03.2018 registered under Sections 148, 149, 323, 307, 427, 506 of IPC and Section 25 of Arms Act (Section 325 IPC added later on) at Police Station Bawal, District Rewari (Annexure P-1) and all other subsequent proceedings arising therefrom on the basis of compromise deed dated 17.01.2023 (Annexure P-2) are hereby quashed qua the present petitioners.

12. All pending applications, if any, are also disposed off.

28.09.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes