

CRA-S-2094-SB-2013 (O&M)

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

**CRA-S-2094-SB-2013 (O&M)
DATE OF DECISION:-19.05.2023**

Suresh Pal

...Appellant

Vs.

State of Punjab and others

...Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. H.S. Randhawa, Advocate for
Mr. P.S. Ahluwalia, Advocate,
for the appellant.

Mr. Tarun Aggarwal, Sr.DAG, Punjab.

Mr. S.S. Rangi, Advocate and
Ms. Sukhan Rangi, Advocate and
Mr. Zorawar Singh, Advocate,
for respondents No.2 to 6.

HARKESH MANUJA, J. (Oral)

CRM-19540-2023

This is an application for listing the main appeal for actual date of hearing.

Notice of the application.

Mr. Tarun Aggarwal, Sr. DAG, Punjab and Mr. S.S. Rangi, Advocate accept notice on behalf of respondent No.1 and respondents No.2 to 6 respectively, and raise no objection.

In view of the averments made in the application, the prayer made herein is allowed and main appeal is taken up for hearing today itself.

CRM-19349-2023

Prayer in this application is for placing on record compromise

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dated 06.03.2023 (Annexure P-1) arrived at between the parties.

Application is allowed as prayed for. Compromise (Annexure P-1) is taken on record.

CRM-20063-2023

Prayer in this application is for impleading the complainant and other victims, namely, Laddi @ Yadwinder Singh, Shunty @ Jatinder Singh, Kaka Singh, Goldy @ Gurdarshan Singh and Harwinder Singh as respondents No.2 to 6.

Mr. Tarun Aggarwal, Sr. DAG, Punjab and Mr. S.S. Rangi, Advocate accept notice on behalf of respondent No.1 and respondents No.2 to 6 respectively, and raise no objection.

For the reasons mentioned in the application which is supported by an affidavit, same is allowed and complainant and other victims, namely, Laddi @ Yadwinder Singh, Shunty @ Jatinder Singh, Kaka Singh, Goldy @ Gurdarshan Singh and Harwinder Singh, are ordered to be impleaded as respondents No.2 to 6.

Amended memo of parties is taken on record.

Main case

1. By way of present appeal, challenge has been laid to the judgment of conviction and order of sentence dated 28.05.2013 passed by the Court of Additional Sessions Judge, Patiala, whereby the appellant was convicted and sentenced as under:-

Offence U/s	Sentence	Fine	In default of payment of fine
307 IPC	03 years	Rs.2000/-	RI for 6 months
27 Arms Act	01 year	Rs.1000/-	RI for 01 months

2. In the present case, appellant was arrayed as accused in FIR

No.518 dated 01.11.2017, under Sections 307/34 IPC and Section 27 of the Arms Act, Police Station Sadar Patiala, on the statement of injured/victim, namely, Harwinder Singh, with the averments that on account of some money dispute, Suresh Pal i.e. the present appellant fired shots towards him with an intention to kill him, which hit him on the left side of the face. In short, the aforesaid version as noticed in the impugned judgment is reproduced hereunder:-

"When he got up they raised a lalkara and Suresh Pal took out a revolver from his trouser and fired a shot towards him with an intention to kill him, the bullet hit on the left side of the fact. On hearing the noise of fire, his nephew Gurwinder Singh son of Jagdev Singh and Yadwinder Singh son of Jaswinder Singh, who were present in the shelter of his brother, came at the spot and on seeing them, the accused persons fled away from the spot."

In the aforesaid incident, the following injuries were found on the person of victim-Harwinder Singh:-

1. Entry wound in the form of lacerated wound with a diameter 4 cm present in the left cheek 3.5 cm left of left angle of mouth and 4 cm above the left angle of mandible. Margins were inverted with abrasion collar. Exit wound in the form of lacerated wound 1 cm in diameter margins everted with profound bleeding was present on the back of left side of the neck, 4.5 cm above the nape of the neck, 4 cm from the posterior midline swelling was present on the left cheek, left side of neck and back of the neck. Track of wound was to be assessed by the surgeon. Surgical observation, Dental opinion and X-rays were advised."

As per the opinion given by Dr. Amandeep Kaur-PW-4, the aforesaid injuries were declared simple in nature.

3. The main appeal was admitted by this Court on 18.06.2013; whereas and sentence of the appellant already suspended by the trial court vide order dated 28.05.2013 was made absolute by this Court vide order dated 28.06.2013 passed in CRM-29880-2013.

4. During pendency of the present appeal, with the intervention of the elders and respectables of the area, the parties have entered into a settlement dated 06.03.2023, which has been reduced into writing and placed on record as Annexure A-1 vide CRM-19349-2023.

5. The factum of aforesaid settlement has not been disputed by learned counsel for respondents No.2 to 6 and the settlement has even been signed by the appellant as well as victim/injured, namely, Harwinder Singh.

6. I have heard learned counsel for the parties and have gone through the judgment passed by the trial Court.

7. A perusal thereof shows that in the present case, though, the fire arm has been used, however, even as per the opinion given by the doctor, injury upon the person of victim/complainant i.e. Harwinder Singh has been found to be simple in nature. More than that, the Court below has gone on to record that in the facts and circumstances of the case in hand, it cannot be made out as to which of the person acted in aggression, therefore, apparently, in the present case, offence under Section 307 IPC is not made out and at best, appellant could have been convicted under Section 326 IPC, considering the fact that the fire arm was used in the incident. Moreover, appellant has already undergone actual sentence of 7 months and 19 days and is not involved in any other case.

8. Thus, considering the overall circumstances of the present case as discussed herein above, I deem it appropriate to convert the conviction of

the appellant from Section 307 IPC to Section 326 IPC and since, the parties have settled their differences so as to give complete quietus to the long drawn litigation between them and to live in peace in future, no useful purpose would be served by proceeding further with the criminal proceedings. Reliance in this regard can be placed upon the law laid down in "***Ramgopal and another vs. State of Madhya Pradesh***", **2021 (4) (RCR) Criminal 322**, wherein, the Hon'ble Supreme Court has very categorically held that this Court in exercise of power under Section 482 Cr.P.C. can even quash the FIR post on conviction once the parties have already settled their difference and intend to bury their litigation considering the future of their generation to come. Relevant paras 13 and 19 are reproduced hereunder:-

"13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of

inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh & Ors. vs. State of Punjab & Ors. and Laxmi Narayan (Supra).

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19. *We thus sumup and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind:*

(i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any ; (iii) Voluntary nature of compromise between the accused and the victim; &

(iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

9. Thus, in view of the above as well as keeping in mind the nature of offence and for the purpose of maintaining peace between them and their generations to come, the appeal is allowed. Consequently, FIR No.518 dated 01.11.2017, under Sections 307/34 IPC and Section 27 of the Arms

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passed by learned Additional Sessions Judge, Patiala as well as all the subsequent proceedings arising therefrom are hereby quashed qua the appellant and he shall be deemed to have been acquitted of the charged offences for all intents and purposes.

10. The aforesaid order shall be subject to payment of costs of Rs.25,000/- to be deposited with the High Court Legal Services Authority, within a period of four weeks from today.

19.05.2023
sonika

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No