

CRM-M-14862 of 2023

2023:PHHC:054316

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

CRM-M-14862 of 2023

Date of decision: 18.04.2023

Firozdin and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. N.P.S. Hira, Advocate,
for the petitioners.

Mr. Adhiraj Singh, AAG, Punjab.

Ms. Guneet Babbar, Advocate,
for Ms. Davinder Kaur Bedi, Advocate,
for respondents No.2 & 3.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioners under Section 482 Cr.P.C. for partial quashing of FIR No.315 dated 07.11.2022 under Sections 307, 341, 506, 148, 149 IPC and Sections 25, 27 of the Arms Act, registered at Police Station Civil Line Batala, District Batala, against the petitioners on the basis of compromise dated 16.03.2023.

2. Brief facts of the case are that present FIR has been registered on the statement of Noordeen son of Maun Deen stating that he works as a milkman and they are four brothers. On 06.11.2022 at about 07.00pm complainant along with his brother Mohammad Fareed

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went to meet their uncle, who was unwell, on their alto car. When they were returning back at about 8.20 pm and reached Amritsar bypass near pull Hansli, two motorcycles approached them. One was driven by Feroze and Mannu was sitting behind him and other motorcycle was driven by Feroze son of Yusuf along with Sadeek. There was also a Swift car having 5-6 unknown persons. Complainant and his brother were waylaid by motorcycle borne persons and Swift car was stopped behind their car. Feroze raised a *lalkara* to kill them, Mannu and Jakar pointed there pistols towards complainant and his brother and asked them to get down from the car. Petitioners started hitting them and fired on Farid which hit on his left arm and left leg and after that petitioner No.4-Jakar fired a shot on the complainant which hit on the left door of his car. Complainant entered his car and started and his injured brother sat on the back seat of the car and they ran away from the spot after hitting the motorcycles. Petitioners followed them, however, they returned back from Nihang Da Gurudwara Bypass Road.

3. Learned counsel for the petitioner has contended that with the intervention of the elders and respectables of both the families, matter has been compromised between petitioners and respondents No.2 and 3. He further submitted that as per compromise, respondents No.2 and 3 have no objection in quashing the FIR in question.

4. Per contra, learned State counsel has opposed the prayer made in the petition by submitting that investigation in the present FIR is at the initial stage and petitioner and other co-accused have not joined the investigation till date.

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

6. In ***Girija Shankar v. State of U.P., 2004(1) R.C.R.(Criminal) 839*** has held that to justify conviction under Section 307 IPC it is not essential that bodily injury capable of causing death should have been inflicted rather the Court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in Section 307 IPC.

7. Hon'ble Supreme Court in ***Narinder Singh and others v. State of Punjab and another, 2014(2) R.C.R.(Criminal) 482*** has laid down the guidelines with regard to the cases in which the cases the compromise should be accepted and the cases wherein the compromise be not accepted. The relevant portion from the said judgment reads as under: -

31. 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 :

(I) 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.

(II) 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.

(III) Such a power is not 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 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.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly 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.

(V) 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.

(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.

(VII) 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 a conclusion as to whether the offence under Section 307 I.P.C. 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 I.P.C. 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.”

8. Hon’ble Supreme Court in ***State of Madhya Pradesh v. Laxmi Narayan and others, 2019(2) R.C.R.(Criminal) 255*** has held as under: -

“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;”

9. There are specific allegations against the petitioners that they fired shots at respondents No.2 and 3 in order to kill them. Investigation in the present case is going on. Co-accused are absconding and not arrested and till date they have not joined the investigation. Present case falls under the category of heinous and serious offence and is a crime against the society.

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10. In view of the facts and circumstances of the present case and law laid down by the Hon'ble Supreme Court in the above judgments, no ground is made out to partially quash the FIR in question on the basis of compromise.

11. Dismissed.

18.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No