

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18924-2022
Date of Decision: May 01, 2023

Arvind @ Brahmin and others ...Petitioners

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Sunil Kumar Pandey, Advocate for
Mr. Anoop Singh Sheoran, Advocate for the petitioners.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

Mr. Gopal Krishan, Advocate for
Mr. Amandeep Singh, Advocate for respondent No.2.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482 Cr.P.C., prayer is made to quash FIR No.229 dated 30.08.2021, registered at Police Station Manesar, District Gurugram, under Sections 379-B/34 IPC (Section 392 read with Section 394 IPC and Section 25 (1-B) (a) of the Arms Act, 1959 added later on) and all the consequential proceedings arising therefrom qua the petitioners, on the basis of the compromise dated 20.04.2022 (Annexure P-2).

2. Although, in compliance of the order dated 06.05.2022 passed by a co-ordinate Bench of this Court, parties appeared before the Trial Court concerned and got their statements recorded regarding the compromise, but quashing of the FIR on the basis of compromise, is strongly opposed by learned State counsel by pointing out towards the heinous nature of the crime.

3. Having considered submissions of both the sides, I find merit in the objection raised by learned State counsel.

4. FIR was lodged on the complaint of respondent No.2- Dilesh Singh Raikwal, as per which he drives Etios vehicle bearing registration No. RJ-14TE-7361 through Uber company. On 29.08.2021, after getting a message from Uber company regarding booking from Gurugram Bus Stand, three unknown persons boarded his vehicle for going to Jaipur from Gurugram. At about 2 O' clock, when they reached New Balali Hotel, near Panchgaon, those boys got the vehicle stopped on the pretext of purchasing water bottle. He (complainant) stopped the vehicle at the road side and then after taking the water bottles, when they were about to move, one of those young boys caught hold of him from neck, pulled him backward and hit him on head with some object, due to which blood started oozing from his head. Another person started driving the vehicle. On the alarm raised by him, he was threatened to be killed. After going a little ahead, he was made to alight from the vehicle and all three of them fled away along with his vehicle. Vehicle was also containing his wallet containing important documents, like driving licence, registration certificate, 3 ATM cards, permit of the vehicle, besides cash of ₹2,000/- and two mobile phones, one of Samsung and other of One plus. It was further stated in the complaint that he could recognize the culprits, if produced before him.

5. Investigation was carried out, during which three petitioners were arrested on 01.09.2021 along with the looted car. A country made pistol used in the crime was recovered from petitioner No.1-Arvind.

Sword used in the crime was recovered from petitioner No.2-Sagar. The looted mobile phone make One plus was recovered from petitioner No.3-Gaurav. Besides the said recovery, the petitioners were identified by the complainant during test identification parade. After conclusion of the investigation, challan was filed in the Court.

6. In *State of Haryana and Ors vs Ch. Bhajan Lal (21 November, 1990): 1992 AIR 604, 1990 SCR Supl. (3) 259*, Hon'ble Supreme Court has laid down certain guidelines, where extra-ordinary power under Article 226 or inherent power under 482 Cr.P.C may be exercised by The High Court, so as to quash the criminal proceedings. It was held as under:

"8.1. In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guide for myriad kinds of cases wherein such power should be exercised:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section

156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. In another case titled *State of Madhya Pradesh v. Laxmi Narayan & Ors., (2019) 5 SCC 688*, a three-Judge Bench of Hon’ble Supreme Court discussed the earlier judgments of the Court and laid down the following principles: -

“15. 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:

15.1. 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;

15.2. 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 offences are not private in nature and have a serious impact on society;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes 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;

15.4. 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/delicate 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 paras 29.6 and 29.7 of the decision of this Court in Narinder Singh [(2014) 6 SCC 466; (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5. 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 impact 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.”

8. Present case does not fall in any of the categories as mentioned in ***Bhajan Lal’s Case (supra)***. Rather, it is evident from the

aforesaid legal position that although the High Court has the power to quash FIR under Section 482 Cr.P.C., but FIR should not be quashed in heinous crime.

9. Having regard to the nature of crime allegedly committed in this case, which is a crime not against individual person, rather against the society at large, having impact on the society, this Court is of the opinion that this is not a fit case where FIR in question and subsequent proceedings should be quashed on the basis of compromise.

Dismissed as such.

May 01, 2023

Sarita

(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No