

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

CRM-M-47242-2018

Date of Decision: 27.03.2023

Sharanpal Singh @ Sharan and others

..... Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. V.K. Sandhir, Advocate, for the petitioners.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Mr. Akshay Sandhir, Advocate, for respondent No.2.

Rajesh Bhardwaj, J. (ORAL)

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.187 dated 05.09.2018, registered under Sections 307, 148, 149 IPC and Sections 25 and 27 of Arms Act 1959, at Police Station Lopoke, Amritsar alongwith all the subsequent proceedings arising therefrom on the basis of compromise dated 04.10.2018 (Annexures P-2 and 3).

FIR in question was lodged by complainant-respondent No.2 and the investigation commenced thereon. However, with the intervention of respectables, finally the parties arrived at settlement and they resolved their inter se dispute, which is apparent from Compromise Deed, annexed as Annexures P-2 and 3. On the basis of the compromise, the petitioners are praying that continuation of these proceedings would be a futile exercise and an abuse of process of the Court and thus, the FIR in question and all the subsequent proceedings arising therefrom may be quashed in the interest of justice.

This Court vide order dated 23.05.2019 directed the parties to

appear before the trial Court/Illaq Magistrate for recording their statements, as contended before the Court, and the trial Court/Illaq Magistrate was also directed to send its report.

In pursuance to the same, learned Judicial Magistrate 1st Class, Ajnala has sent its report dated 07.08.2019. With the report, he has also annexed the photocopies of the statements of respondent No.2-complainant Surjit Singh and joint statement of the petitioners, namely, Sharanpal Singh @ Sharan, Jaskaran, Sarabjit Singh and Manjinder Singh @ Lucky recorded on 18.07.2019. On the basis of the statements, learned Judicial Magistrate 1st Class, Ajnala has concluded in its report that the compromise is genuine and voluntary. It is further mentioned in the report that total four accused i.e. the present petitioners are named in the FIR and none of them has been declared as proclaimed offender. It is further mentioned in the report that report under Section 173 Cr.P.C. has not been presented so far.

It has been contended by learned counsel for the petitioners that though there are offences under Section 307 IPC and Arms Act, however, the weapon was licensed weapon and the petitioners fired in the air and there is no injury caused to any of the person. He has submitted that offences under Section 307 IPC and Arms Act are not even made out. It is further submitted that during the pendency of the case, the parties resolved the dispute amicably.

Learned counsel for respondent No.2 has also affirmed the submissions made by learned counsel for the petitioners and has submitted that there was no injury pertaining to the offence under Section 307 IPC and shot was fired in the air and they have compromised the matter with their free will.

I have heard learned counsel for the parties, perused the record

and the report sent by learned Judicial Magistrate 1st Class, Ajnala.

The Hon'ble Supreme Court in Narinder Singh and others Versus State of Punjab and another, 2014 (6) SCC 466; has held 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) to (V)

(VI) Offences under Section 307 IPC 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 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 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.”

A bare perusal of statutory provision of the 482 Cr.P.C. would show that the High Court may make such orders, as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Section 320 Cr.P.C. is equally relevant for consideration, which prescribes the procedure for compounding of the offences under the Indian Penal Code.

Keeping in view the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, the continuation of criminal prosecution would be a futile exercise. The Hon'ble Supreme Court in a number of cases including **B.S.Joshi and others vs State of Haryana and another (2003) 4 Supreme Court Cases 675** followed by this Court in Full Bench case of **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052** have dealt with the proposition involved in the present case and settled the law.

Thereafter, Hon'ble Supreme Court in **Gian Singh vs State of Punjab and another** (2012) 10 Supreme Court Cases 303 further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in **State of Haryana vs Bhajan Lal**, 1992 Supp (1) SCC 335. Para 61 of the judgment reads as under:-

“61. The position that emerges 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 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 offender in relation to the offences under special statutes like 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-dominantly 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 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 the 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 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.”

As alleged by learned counsel for the parties and affirmed by learned counsel for respondent No.2 that fire arm was never used and there is no injury caused on account of use of fire arm.

Applying the law settled by Hon'ble Supreme Court in plethora of judgments and this High Court it is apparent that when the parties have entered into a compromise, in the nature of cases as prescribed then continuation of the proceedings would be merely an abuse of process of the Court and by allowing and accepting the prayer of the petitioners by quashing the FIR would be securing the ends of justice, which is primarily the object of the legislature enacting under Section 482 Cr.P.C.

In the facts and circumstances, this Court finds that the case in hand squarely falls within the ambit and parameters settled by judicial precedents and hence, FIR No.187 dated 05.09.2018, registered under Sections 307, 148, 149 IPC and Sections 25 and 27 of Arms Act 1959, at Police Station Lopoke, Amritsar alongwith subsequent proceedings arising therefrom are hereby quashed qua the petitioners, on the basis of compromise (Annexures P-2 and 3).

Needless to say that the parties shall remain bound by the terms and conditions of the compromise and their statements recorded before the Court below.

Petition stands allowed.

27.03.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No