

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

CRM-M-39342-2023

Date of decision : 11.08.2023

Harwinder Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Vishal Munjal, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR on the basis of compromise.

2. Petitioner has been booked in FIR No.91 dated 13th September, 2019 registered for the offences punishable under Sections 307, 379, 148, 149 IPC and Sections 25/27 of Arms Act, 1959 registered at Police Station Dera Baba Nanak, Police District Batala, District Gurdaspur.

3. As per the allegations levelled in the FIR, it has been alleged as under :-

“It is stated that I am resident of aforementioned address. I am studying in 10+2 class at Golden New Public Senior Secondary School Hardowal Kalan. My father is running a Karyana Shop at village Hardowal Kalan. Yesterday on 12.9.2019 time was around 6 pm, I was going to Fatehgarh Churian from my village on bullet motor cycle of my friend Gurmukh Singh son of Rajinder Singh Caste Jatt, resident of

Hardowal Kalan, one Bolero car was coming from our village in which Harwinder Singh son of Baldev Singh Case Jatt, resident of Changia, Harmanpreet Singh son of Harjinder Singh, Caste Jatt, resident of Dhado, Harpreet Singh @ Happy son of Daljit Singh, Caste Jatt, resident of Dehar Gwaar and three other unkonwn person were sitting and were chasing us. When we reached near village Samrai post office then Harvinder Singh had fired in the air twice from his revolver and hit his Balero car with our motor cycle. We fell down on ground along with motor cycle. Harvinder Singh came out of car and in order to kill me fired upon me from his revolver, which hit on my back side. In the meantime, other young person came out of car and had beaten me. Due to this, I had received many injuries and became unconscious. While going back, they took my mobile Samsung Galaxy J-6 and purse in which Rs.10,000/- was there which I brought from home for purchasing goods. My friend Gurmukh Singh raised raula Maar Dita Maar Dita. Then many persons from village came there. The aforesaid accused person run away from the spot along with their car. The reason for the fight is that Harpreet Singh resident of Dehar Gawar and Simran Chatha resident of village Khaba Gali who is studying in my school had a fight in which Harpreet Singh had suffered injuries. They thought that I had also participated in the fight. Due to this, they hit their car with our motor cycle and in order to kill me had fired upon me from his revolver and injured me.”

4. Though the complainant has appeared through his Counsel (Mr. Vishal Munjal, Advocate) and admits the fact of their being a compromise between the parties. However, the question arises is whether the present case would fall within the exceptions carved out by Supreme Court in **State of Madhya Pradesh vs. Laxmi Narayan and others (2019)**

5 SCC 688 ? Wherein Apex Court held as under :

“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 offences 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 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.”

5. Keeping in view that the injury caused is a firearm injury that too on the body of the victim which has been fully described in the MLR as under :

“1. Puncture wound 0.5X0.5 cm on the back (L) side, (*sic*)
xxxxxxx”

this Court does not deem it appropriate that any finding at this

stage can be recorded that the allegations levelled against the petitioner would not constitute offence punishable under Section 307 IPC.

6. In view of above, the present petition is dismissed.

August 11, 2023	(Pankaj Jain)
Dpr	Judge

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No