

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

CRM-M-36555-2019

Date of Decision: 09.10.2023.

Parveen

. . . . Petitioner

Vs.

State of Haryana and another

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Naveen Dahiya, Advocate, for
Mr. Shalender Mohan, Advocate, for the petitioner.

Mr. Vipul Sherwal, AAG, Haryana.

Ms. Aarti Sharma, Advocate, for respondent No.2.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 482 CrPC is to quash FIR No.190 dated 01.04.2019 registered at Police Station Hansi City under Sections 395 and 397 IPC and all subsequent proceedings arising therefrom, on the basis of compromise dated 21.08.2019.(Annexure P2).

2. As per prosecution case, FIR was lodged on the complaint of respondent No.2-Mukesh, who is running a hotel in the name of 'Bundela' at Dayal Singh Colony, Hansi. It was alleged that on 31.03.2019 at about 9.00 PM, when he was in the process of closing the hotel and going home, petitioner accompanied by Sonu, Raja, Rakesh and others came there in inebriated stage. Sonu was armed with sword and others were armed with sticks. Raja and Sonu asked for money from the complainant. As he refused, the accused caused injuries to him. After giving beatings, they took away ₹8,000-10,000 from the safe of the hotel and after threatening to kill

him, they fled away. During investigation, Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was also invoked. On concluding the investigation, though Sections 395 and 397 IPC were deleted, but the same were replaced by Section 394 IPC.

3. Contention of the petitioner is that matter has since been compromised with respondent No.2-complainant. That compromise dated 21.08.2019 is placed on record as Annexure P2.

4. As per the report received from the trial Court concerned, complainant has entered into a compromise amicably and voluntarily.

5. However, Ld. State counsel has strongly opposed the prayer for quashing the FIR on the basis of compromise by pointing out towards the nature of offence. It is also pointed out that petitioner is involved in as many as 8 other cases, as per the details given in para-No.6 of the status report. Besides, after conclusion of investigation and framing of the charge, 10 witnesses have already been examined by the prosecution out of total 14 witnesses.

6. Having considered submissions of both the sides, I find merit in the contention of the ld. State counsel.

7. In the State of *Madhya Pradesh v. Laxmi Narayan & Ors.*, (2019) 5 SCC 688, a three-Judge Bench of Hon'ble Supreme Court after discussing the various judgments of the Court, laid down the following principles: -

“15. Considering the law on the point and the other decisions of this Court on the point, referred to herein above, 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 herein above;

*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. In view of the aforesaid observations made by Hon’ble Supreme Court and having regard to the nature of allegations, which pertain to commission of a heinous crime, this Court is of the opinion that quashing of FIR in this case should not be allowed on the basis of compromise.

Dismissed.

09.10.2023

Vivek

(DEEPAK GUPTA)
JUDGE

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No