

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

**CRM-M No.44987 of 2022
Date of Decision: 04.07.2023**

Chand Singh and others ...Petitioners

vs.

State of Haryana and another ...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Pratap Singh, Advocate with
 Mr. Vikas, Advocate
 for the petitioners.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Yashveer Kharab, Advocate
for the complainant.

N.S.Shekhawat J. (Oral)

The petitioners have filed the present petition under Section 482 Cr.P.C. with a prayer to quash the FIR No.0370 dated 19.09.2022 registered under Sections 307, 452, 120-B and 34 of IPC, 1860 and Section 25(1-B)(a) of Arms Act, 1959, at Police Station, Sector-13-17 Panipat, District Panipat, on the basis of compromise between the parties.

The FIR in the instant case was registered on the basis of the statement made by Renu, respondent No.2/wife of Chand Singh by alleging that she was having temperamental differences with her husband since long. On 19.09.2022, she was present at the house of her sister Rekha at Ansal City,

Panipat. At about 10 o' clock in the night, Chand Singh had come at the house of her sister and abused her and fired at her with an intention to kill her. She ran away from there and saved her life. Vijay Kharab, friend of Chand Singh was also present with him. She further stated that Seema, resident of Jyoti Nagar, was also involved in the present occurrence and legal action might be taken against them.

Learned counsel for the petitioners submitted that the marriage between the petitioner No.1 and respondent No.2 was solemnized in the year 2000 and three children were born out of the said wedlock in the year 2004, 2005 and 2007, respectively. Initially, petitioner No.1 and respondent No.2 were living happily in their matrimonial home. However, after sometime, both of them developed differences and had started living separately. After the registration of the present case, the family members and relatives of both the parties held panchayat and the petitioner No.1 and respondent No.2 had agreed to reside together with their children in their matrimonial home. Even a compromise deed dated 21.09.2022 (Annexure P-2) was executed between the petitioners and respondent No.2 and they had agreed to get the present FIR quashed from this Court on the basis of the compromise. Learned counsel for the petitioners further submits that now the petitioner No.1 and respondent No.2 are residing happily in the matrimonial home. Apart from that, he also further contends that it has been alleged in the FIR that the petitioner No.1 had allegedly fired at respondent No.2, however she did not suffer any injury at all and the police had wrongly invoked the provisions of Section 307 IPC. He further prayed that since the parties have buried their hatchet and are living happily in their matrimonial home with their thee young children, the

continuation of the proceedings before the learned trial Court/police will be misused of the process of law and would not serve any purpose. Still further, since the parties are residing together, there are no chances of making deposition by the important witnesses, in favour of the prosecution and the chances of conviction are bleak.

The learned State counsel has opposed the present petition on the ground that the offence under Section 307 of IPC is a serious offence and is a non-compoundable. She further contends that seven more cases have been registered against petitioner No.1 and one more criminal case has been registered against petitioner No.2. However, she admits that out of seven cases registered against petitioner No.1, he has been acquitted in six cases and only one case FIR No.450, dated 05.11.2020, under Sections 420, 120-B IPC and Section 61-1-14 of Excise Act, at Police Station Madlauda, District Panipat is pending against petitioner No.1, whereas a case FIR No.218, dated 01.03.2020 under Sections 7/13 of the Prevention of Corruption Act, Police Station Model Town, Panipat has been registered against petitioner No.2.

Vide order dated 09.03.2023, this Court directed the parties to appear before the learned Illaqa Magistrate, within a period of 30 days and the learned Illaqa Magistrate/trial Court was directed to submit a report on or before the next date of hearing.

In compliance of the said order, the learned Chief Judicial Magistrate, Panipat had submitted a report before this Court. It is averred in the said report that the petitioners and respondent No.2 had entered into a compromise voluntarily, without any external pressure. He was also of the opinion that the compromise so effected was for amicable settlement of the

dispute and was effected without any external pressure, coercion or force and is a valid compromise. Even the parties had made a statement before the learned Chief Judicial Magistrate, Panipat that the compromise had been effected between them. Even the complainant did not want to pursue this case any further and prayed for quashing of the FIR. The report submitted by learned Chief Judicial Magistrate, Panipat is already on record.

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

The Hon'ble Supreme Court of India has held in the matter of **“Narinder Singh Vs. State of Punjab”** as follows:-

“ 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 to 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.”

While considering the issue regarding quashing of the FIR under Section 307 of IPC on the basis of compromise, the Hon’ble Supreme Court held in the matter of “**State of Madhya Pradesh Vs. Laxmi Narayan; 2019 AIR (SC) 1296** as follows:-

“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.”

Keeping in view the above stated principles of law, now I would advert to the facts of the present case and the pleadings of the parties.

I have also gone through the FIR, which was got registered by respondent No.2, which clearly establishes that a matrimonial dispute was pending between petitioner No.1 and respondent No.2, even though the nature of dispute etc. has not been mentioned by the complainant/respondent No.2.

It is further apparent that now the parties have amicably resolved all their disputes and this fact has been verified by the Court of learned Chief Judicial Magistrate, Panipat. Even a detailed report has been submitted by the learned Chief Judicial Magistrate, Panipat, who clearly stated that the parties have compromised the matter voluntarily. It is apparent that there had been some dispute, which led to the aforesaid purported attack by the accused on the complainant. Even no role has been assigned to petitioners No.2 and 3 by the complainant herself. Even general allegations have been levelled against petitioner No.3. However, I find that when the common relatives and friends intervened in the matter, both the sides had not only buried their hatchet, but also decided to live peacefully in the matrimonial home with their three young children. Even respondent No.2 had not suffered any injury in the present case. Consequently, in view of the compromise between the parties, there are minimal chances of the witnesses coming forward to depose against the petitioners and his family members. Further, since petitioner No.1 and

respondent No.2 are residing happily in their matrimonial home and continuation of trial would adversely affect their matrimonial life.

Taking into consideration the above referred pronouncements and taking into consideration the above referred facts, this Court is of the considered opinion that the continuation of the proceedings in the present case would be an abuse of the process of Court. As a consequence, the present petition is accepted and the criminal proceedings arising out of FIR No.0370 dated 19.09.2022 registered under Sections 307, 452, 120-B and 34 of IPC, 1860 and Section 25(1-B)(a) of Arms Act, 1959, at Police Station, Sector-13-17 Panipat, District Panipat are quashed qua the present petitioners.

04.07.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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