

CRM-M-48046 of 2022

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

CRM-M-48046 of 2022
Reserved on: 17.05.2023
Pronounced on: 06.07.2023

Pardeep and others

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Manvender Chauhan, Advocate,
for the petitioners.

Ms. Gaganpreet Kaur, DAG, Haryana.

Mr. Tarun Sharma, Advocate,
for respondent No.2.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioners under Section 482 Cr.P.C. for quashing of FIR No.530 dated 06.09.2022 under Section 25 of the Arms Act and Sections 148, 149, 307 and 506 IPC, registered at Police Station Gannaur, District Sonipat, and all consequential proceedings arising therefrom, on the basis of compromise/affidavit dated 27.09.2022 (Annexure P-2) arrived at between the parties.

2. Learned counsel for the petitioner has contended that it is a family dispute between brothers-in-law (Jija and Sala) and with the intervention of the elders and respectables of both the families, matter

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has been compromised between petitioners and respondent No.2 vide compromise deed dated 27.09.2022. He further submitted that as per compromise, respondent No.2 has no objection in quashing the FIR in question. He further submitted that petitioners are in custody. No injury has been caused to complainant side and parties are residing in the same area peacefully as parties are part of same family and relative to each other.

3. Notice of motion was issued on 17.10.2022 and in pursuance thereof, learned State counsel has filed the reply, who has vehemently opposed the prayer made in the petition by submitting that there are specific and grave allegations against the petitioners. She further submitted that petitioner No.1-Pardeep is a habitual offender as he is involved in six more cases. Therefore, no ground is made out to quash the present FIR on the basis of compromise against the petitioners.

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

5. Contents of the impugned FIR got lodged by respondent No.2 reads as under: -

"To the Chowki Incharge Khubru Jhal. Sir, It is requested that I Sagar son of Balwan is the resident of Ahulana. We are two brothers and a sister. My sister Jyoti is elder to me, who was married in the year 2013 with Pardeep son of Rohtash Nain of Tatarpur at present residing at Shastri Colony, Samalkha. After the marriage, my brother-in-law was having links with anti-social elements and about 4 years ago a case was registered at Samalkha against my

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brother-in-law (Jija) Pardeep for keeping illegal weapon and after spending about 2 years in the jail, my brother-in-law started partnership in the liquor vends of Dhindar, Chulkana, Chhajiya and he started keeping me with him. For about 2½ years I served with my brother-in-law and during that time Pardeep started beating me and under the influence of liquor he started threatening me and now also he is having country made pistol with him. Being afraid of Pardeep I came back home after leaving the job and my brother-in-law visited my home and threatened me for taking me back, but I did not go and by keeping this grudge in mind on dated 05/06.9.2022 in the night at about 12.15 a.m., he under the influence of liquor came in front of my house alongwith his companion Krishan resident of Chulkana and 2-3 other boys and started threatening me. When I saw through the window of my room, my brother-in-law with intention to kill me fired number of times and I saved my life by hiding myself behind the wall. My father and my brother Rakesh son of Rampal climbed on the roof top and from the top, they threw bricks on his vehicle MG HECTOR No.HR-60-L-6107. Then my brother-in-law Pardeep and his friends while threatening to kill ran away from the spot in the said vehicle.”

6. In ***Girija Shankar v. State of U.P., 2004(1) R.C.R.(Criminal) 839*** the Hon’ble Supreme Court has held that to justify conviction under Section 307 IPC it is not essential that bodily injury capable of causing death should have been inflicted rather the Court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in Section 307 IPC.

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7. Hon'ble Supreme Court in ***Narinder Singh and others v. State of Punjab and another, 2014(2) R.C.R.(Criminal) 482*** has laid down the guidelines with regard to the cases in which the cases the compromise should be accepted and the cases wherein the compromise be not accepted. The relevant portion from the said judgment reads 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) 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.

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(III) Such a power is not 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

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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

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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.”

8. In State of **Rajasthan v. Shambhu Kewat, (2014) 4 SCC 149**, Hon’ble Supreme Court has held as under:-

*14. We notice that the gravity of the injuries was taken note of by the Sessions Court and it had awarded the sentence of 10 years rigorous imprisonment for the offence punishable under [Section 307 IPC](#), but not by the High Court. The High Court has completely overlooked the various principles laid down by this Court in *Gian Singh (supra)*, and has committed a mistake in taking the view that, the injuries were caused on the body of Abdul Rashid in a fight occurred at the spur and the heat of the moment. It has been categorically held by this Court in *Gian Singh (supra)* that the Court, while exercising the power under [Section 482](#), must have “due regard to the nature and gravity of the crime” and “the societal impact”. Both these aspects were completely overlooked by the High Court. The High Court in a cursory manner, without application of mind, blindly accepted the statement of the parties that they had settled their disputes and differences*

and took the view that it was a crime against “an individual”, rather than against “the society at large”.

15. We are not prepared to say that the crime alleged to have been committed by the accused persons was a crime against an individual, on the other hand it was a crime against the society at large. Criminal law is designed as a mechanism for achieving social control and its purpose is the regulation of conduct and activities within the society. Why [Section 307 IPC](#) is held to be non-compoundable, because [the Code](#) has identified which conduct should be brought within the ambit of non-compoundable offences. Such provisions are not meant, just to protect the individual, but the society as a whole. High Court was not right in thinking that it was only an injury to the person and since the accused persons had received the monetary compensation and settled the matter, the crime as against them was wiped off. Criminal justice system has a larger objective to achieve, that is safety and protection of the people at large and it would be a lesson not only to the offender, but to the individuals at large so that such crimes would not be committed by any one and money would not be a substitute for the crime committed against the society. Taking a lenient view on a serious offence like the present, will leave a wrong impression about the criminal justice system and will encourage further criminal acts, which will endanger the peaceful co-existence and welfare of the society at large.

16. We are, therefore, inclined to allow this appeal and set aside the judgment of the High Court. The High Court was carried away by the settlement and has not examined the matter on merits, hence, we are inclined to direct the High

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Court to take back the appeal to its file and decide the appeal on merits.

9. In the State of **Madhya Pradesh v. Kalyan Singh, 2019(4) SCC 268**, Hon'ble Supreme Court has held as under:-

[3.1] It is required to be noted that the original Accused was facing the criminal proceedings under Sections 307, 294 read with Section 34 of the IPC. It is not in dispute that as per Section 320 of the Cr.PC offences under Sections 307, 294 read with Section 34 of the IPC are non-compoundable. It is also required to be noted that the allegations in the complaint for the offences under Sections 307, 294 read with Section 34 of the IPC are, as such, very serious. It is alleged that the accused fired twice on the complainant by a country-made pistol. From the material on record, it appears that one of the accused persons was reported to be a hardcore criminal having criminal antecedents. Be that as it may, the fact remains that the accused was facing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC and that the offences under these sections are not non-compoundable offences and, looking to the serious allegations against the accused, we are of the opinion that the High Court has committed a grave error in quashing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC solely on the ground that the original Complainant and the accused have settled the dispute. At this stage, the decision of this Court in the case of Gulab Das and Ors. V. State of M. P., 2011 12 Scale 625 is required to be referred to. In the said decision, this Court has specifically observed and held that, despite any settlement between the Complainant on the one hand and the accused on the other, the criminal

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proceedings for the offences under Section 307 of the IPC cannot be quashed, as the offence under Section 307 is a non-compoundable offence. Under the circumstance, the impugned judgment and order passed by the High Court quashing the criminal proceedings against the original Accused for the offences under Sections 307, 294 read with Section 34 of the IPC cannot be sustained and the same deserves to be quashed and set aside.

[4] In view of the above and for the reasons stated above, the present appeal is allowed. The impugned judgment and order passed by the High Court in Miscellaneous Criminal Case No. 6075 of 2013 is hereby quashed and set aside.

10. Hon'ble Supreme Court in ***State of Madhya Pradesh v. Laxmi Narayan and others, 2019(2) R.C.R.(Criminal) 255*** has held as under: -

“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

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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 impart 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.

[14] Insofar as the present case is concerned, the High Court has quashed the criminal proceedings for the offences under Sections 307 and 34 IPC mechanically and even when the investigation was under progress. Somehow, the accused managed to enter into a compromise with the complainant and sought quashing of the FIR on the basis of a settlement. The allegations are serious in nature. He used the fire arm also in commission of the offence. Therefore, the gravity of the offence and the conduct of the accused is not at all considered by the High Court and solely on the basis of a settlement between the

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accused and the complainant, the High Court has mechanically quashed the FIR, in exercise of power under Section 482 of the Code, which is not sustainable in the eyes of law. The High Court has also failed to note the antecedents of the accused.”

11. This Court after taking into consideration the above mentioned judicial precedents rendered by Hon’ble Supreme Court, is not inclined to invoke jurisdiction under Section 482 Cr.P.C. to quash the FIR on the basis of compromise as there are specific and grave allegations against the petitioners. Petitioner No.1 fired number of shots in drunken condition with an intention to kill the complainant, who saved himself by hiding behind the wall. Police has recovered four fired cartridges from the spot. No doubt, petitioner No.1 and complainant are relatives, but the present case falls under the category of heinous and serious offence and is a crime against the society. Moreover, petitioner No.1-Pardeep is a habitual offender as he is involved in six more cases.

12. In view of the facts and circumstances of the present case and law laid down by the Hon’ble Supreme Court in the above judgments, no ground is made out to quash the FIR in question on the basis of compromise.

13. Dismissed.

06.07.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No