

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

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CRM-M-61874-2018(O&M)

Decided on : 18.05.2023

Gurvinder Singh @ Gindi and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

PRESENT: Mr. H. S. Batth, Advocate for the petitioners

Mr. M. S. Nagra, AAG, Punjab

Ms. Lovepreet Kaur, Advocate for respondent No. 2

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 0009, dated 12.01.2016 registered under Sections 307, 323, 427, 148 and 149 of the Indian Penal Code, 1860 at Police Station Division No. 7, District Ludhiana, Annexure P-1 and all other consequential proceedings arising therefrom on the basis of compromise dated 18.10.2018, Annexure P-2.

2. Learned counsel for the petitioner submits that with the intervention of the respectables, the matter has been settled between the parties. A compromise deed, Annexure P-2, has been executed between them, as per which, the complainant and his injured brother have no objection if the FIR in question is quashed. He places reliance on the judgment of **Kulwinder Singh and others vs. State of Punjab**, 2007(3) RCR (CrL.) 1052

3. Learned State counsel on the other hand opposes the petition on the ground that there are specific allegations in the FIR of inflicting grievous injuries to the complainant party with *kirpan* and baseball bat by the petitioners, which are

corroborated by the MLRs. Charges framed and 4 out of 8 prosecution witnesses have already been examined including the complainant, who have supported the prosecution version.

4. Learned counsel for respondent No.2-complainant admits the factum of compromise and states that she has no objection with the quashing of FIR.

5. Heard the learned counsel for the parties.

6. The prosecution case as per the FIR is that on 11.01.2016, at around 11.30 pm, when complainant and his brother Kamalpreet Singh @ Judge were going to their house and had reached the house of Dalip Singh, someone threw a brick on their car due to which it got out of control. Thereafter, accused-Gindi of Kuliawal gave a kirpan blow on the forehead of the complainant, whereas accused-Chhinde gave three kirpan blows on his left arm and when Kamalpreet tried to stop them, accused-Gindi and Chhinde gave kirpan blows to him on his legs, head and back. Accused-Mani gave baseball blows on the left eye and legs of the complainant, accused-Gindi again gave kirpan blows on the left side of his lips. Three unknown persons were also present at the spot. Both the complainant and his brother-Kamalpreet Singh became unconscious. The accused also took out Rs.35,000/- from the pocket of the complainant and Rs.11000/- from his brother, which was said to be their motive.

7. In **Mukhtiyar Ali vs. State of NCT Delhi** (2021) SCC Online Del 4428, it was observed and held thus:

“11. In view of the conflict between the two judgments, the matter was referred to a larger Bench and the larger Bench of Supreme Court in **State of M.P. v. Laxmi Narayan**, (2019) 5 SCC 688, resolved the conflict by observing as under:

"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 of 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. 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 [Narinder Singh v. State of Punjab, (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 hereinabove.

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13. Considering the law laid down by the Supreme Court in **State of M.P. v. Laxmi Narayan** (supra) it can be seen that this is not an ordinary fight between the neighbours. The petitioners must be thankful that they are not facing trial in a case of murder because in ordinary circumstances the injuries inflicted by the petitioners were sufficient to cause death. As stated in the MLC, the victim had to undergo multiple blood transfusions on 03.08.2021 and 04.08.2021. A surgery also had to be performed on him and he was kept in surgical ICU. The MLC further reveals that the victim had suffered two stab wounds of size 5 cm × 1 cm on the left side of the midline and of size 4 cm × 1 cm on the right side of the midline, perforations were found on the bowel walls of the petitioner. It is further revealed that about 500 ml blood was found in the abdominal cavity. There were multiple tears in the bowel line and diffusion ooze was present in the bowel lining and two drains had to be placed in the abdominal cavity.

14. The victim has been attacked with a dangerous

weapon i.e. a knife. As stated hereinabove, injuries are such which would have caused death in ordinary circumstances. Applying the principles laid down by the Supreme Court in **State of M.P. v. Laxmi Narayan** (supra), this Court is not inclined to quash the FIR solely on the ground that the parties have entered into a compromise.”

8. Reverting to the case in hand, the petitioners have brutally beaten up the complainant and his brother, inflicting serious injuries on the vital parts of their body with their respective lethal weapons i.e. kirpans and baseball bat. The trial is at an advanced stage wherein only 4 witnesses out of a total of 8 have been examined, including the complainant, who have all supported the prosecution case. The ocular version is also stated to be corroborated by the medical evidence.
9. Considering the peculiar facts and circumstances of the case and the parameters laid down in the case of **Laxmi Narayan** (supra), this Court finds it to be not a fit case for quashing the FIR on the basis of a compromise. As such, the present petition being bereft of any merit is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

18.05.2023
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No