

CRM-M-49314-2019 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-49314-2019 (O & M)

Date of decision: 24.05.2023

Shamsher Singh and anr.

.... Petitioners

V/s

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Siddharth Gupta, Advocate,
for the petitioners.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. L.S. Lakhanpal, Advocate,
for the respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this petition is for quashing of FIR No. 29 dated 26.04.2019 under Sections 307, 324, 323 and 34 IPC registered at Police Station Ballianwali, District Bathinda and all consequential/subsequent proceedings arising therefrom on the basis of a compromise dated 20.06.2019 (Annexure P-2) and affidavit dated 20.06.2019 (Annexure P-3) .

Vide order dated 13.03.2023 this Court had directed the parties to appear before Illaqa Magistrate for getting their statements recorded in terms of certain parameters given in the aforesaid order dated 13.03.2023 with regard to the compromise and affidavit (Annexures P-2 and P-3 respectively).

In terms of the order dated 13.03.2023 passed by this Court

parties have appeared before the court of the Judicial Magistrate Ist Class,

Phul and as per the report dated 11.04.2023 submitted to this Court, both the parties have got recorded their respective statements in Court.

A perusal of the aforesaid report would show that the parties have effected a genuine compromise without there being any pressure, coercion or undue influence. In view of the compromise there is a remote possibility of the complainant coming forward to support the prosecution case. The powers under Section 482 Cr.PC can be exercised in such like situation in order to prevent unnecessary vagaries of criminal trial to be faced by the parties, when there are remote chances of conviction of the accused. The compromise in question is found to be fully in consonance with the direction issued by the Court in ***Kulwinder Singh & Ors. Vs. State of Punjab 2007(3) RCR (Criminal) 1052 and Gian Singh Vs. State of Punjab & Anr., 2012(4) RCR (Crl.) 543.***

In the present case, undoubtedly, the FIR has been registered under Section 307 IPC and therefore, the question would be as to whether the FIR could be quashed.

The Hon'ble Supreme Court in ***Narinder Singh and Others vs State of Punjab and Another, 2014 (2) RCR (Criminal) 482, and State of Madhya Pradesh vs Laxmi Narayan and Others, 2019(2) RCR (Criminal) 255***, have categorized those cases where quashing on the basis of compromise was permitted and those in which, it was not permitted. It was further observed that the Court concerned may look into the medical evidence and examine the same to see as to whether the conviction under Section 307 of the IPC was possible or not.

Thus, mere registration of an FIR under Section 307 did not foreclose the right of the petitioner/accused to effect a compromise and get the FIR quashed.

According to the reply dated 26.09.2022 filed on behalf of the respondent-State by way of an affidavit of Baljeet Singh Brar, PPS, Deputy Superintendent of Police, Sub Division Maur, District Bathinda, as per the MLR total three injuries were marked by the concerned doctor, out of which, injury No.1 was declared to be caused with sharp and pointed weapon and was declared to be “dangerous to life” whereas injuries No.2 and 3 were declared to be caused by blunt weapon and simple in nature.

Be that as it may, as the injuries No.2 and 3 have been caused by a blunt weapon, therefore, the possibility of recording of a conviction under Section 307 is unlikely. Even otherwise, an injury i.e. injury No.1 which has been “declared dangerous to life” is in fact an injury which is ‘endangering life’ and therefore would be punishable under Section 326 IPC. Therefore, in the present case if a conviction was to be recorded, in all probability it would be one under Section 326 IPC and not under Section 307 IPC. It has been so held in *Atma Singh Vs. The State of Punjab 1980 PLR 719*, *Mohinder Singh & Ors. Vs. State of Punjab 2012(4) RCR (Criminal) 214*, *Narender Singh Vs. State of Haryana & Ors. 2020(3) RCR (Criminal) 66*, *Mehmood Akhtar Vs. State of Punjab 2014(16) RCR (Criminal) 43 & Pritam Singh & Anr. Vs. State of Punjab Crl. Appeal No.1126-SB-1 999 Decided on 25.02.2010*.

In such a situation to put quietus to the incident between the parties it would in the interest of justice to quash the proceedings on the basis of the compromise.

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In view of the above, the present petition is allowed. FIR No. 29 dated 26.04.2019 under Sections 307, 324, 323 and 34 IPC registered at Police Station Ballianwali, District Bathinda along with all the consequential proceedings arising therefrom are hereby quashed on the basis of a compromise and affidavit (Annexures P-2 and P-3) qua the petitioners only.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 24, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No