



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

307

CRM-M-2512-2024
Date of decision: July 22nd, 2024

Sandeep Kumar
.....Petitioner

Versus
State of Punjab and another
.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Saurav Bhatia, Advocate
for the petitioner.

Mr. Shiva Khurmi, Assistant Advocate General, Punjab.

Mr. Kuljinder Singh Billing, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

Prayer in the instant petition is for quashing of FIR No.102 dated 18.10.2023 under Section 307 of the IPC registered at Police Station Sadar Nawanshahr, District Shaheed Bhagat Singh Nagar along with all subsequent proceedings arising therefrom on the basis of compromise dated 28.11.2023 (Annexure P-2).

2. Vide order dated 18.01.2024, this Court had issued notice of motion in the following terms:-

“Learned State counsel is directed to file a reply and assist this Court as to how the FIR in question can be quashed on the basis of a compromise and that too for an offence under Section 307 of the IPC, wherein the petitioner had allegedly inflicted the following injury, which finds detailed in the MLR (Annexure P-4):-

Sharp cut occipital wound with tailing on left side of size 12X3 cm. Bone deep, margins sharply cut, bone fractured and seperated from dura, with active bleed from occipital sinus. CT scan shows occipital bone fracture and left occipital contusion (blood in brain)

3. Meanwhile, vide order dated 02.05.2024, a coordinate Bench of this Court directed the petitioner to get his statement recorded in pursuance of the compromise purportedly affected between the parties vide Annexure P-2.

4. Report has since been received from the learned trial Court qua the recording of statements of both the parties, however, reply has been filed by way of affidavit of Deputy Superintendent of Police, Sub Division Balachaur, District S.B.S. Nagar, on behalf of the State.

5. Learned State counsel has vehemently opposed the prayer made by the counsel for the petitioner for quashing the FIR in question keeping in view the way the crime in question was executed; it has been submitted that it was a premeditated attack carried out by the petitioner, who came armed with a *datar* and thereafter, inflicted the injury in question, which undoubtedly is a serious injury on a vital part of the person of the complainant. Learned State counsel in support of his opposition to the prayer of the learned counsel for the petitioner has referred to the various judicial pronouncements of Hon'ble the Supreme Court, including *Narinder Singh Versus State of Punjab (214) 6 SCC 466* and *Criminal Appeal No.349 of 2019* titled as *The State of Madhya Pradesh Versus Laxmi Narayan and others* decided on 05.03.2019, wherein Hon'ble the Supreme Court held as under:-

“9.3 In the case of Narinder Singh vs. State of Punjab (2014) 6 SCC 466, after considering the decision in the case of Gian Singh (supra), in paragraph 29, this Court summed up as under:

“29. 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:

29.1. 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.

29.2. 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.

29.3. 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 the 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.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly 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.

29.5. 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.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are 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 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 proving 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. 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 latter 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.

29.7. 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 to a conclusion as to whether the offence under Section 307 IPC 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 IPC 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.”

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 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.”

6. Following the above observations, in ***Daxaben Versus The State of Gujarat 2022 LiveLaw (SC) 642 ; Arun Singh v. State of U.P. 2020(3) RLW 2394*** and the catena of other judgments, Hon’ble the Supreme Court has reiterated that offences which are not private in nature and have a serious impact on society at large cannot be quashed merely because the parties have arrived at a settlement.

7. Learned counsel for the petitioner has, however, vehemently submitted that since it was only a single blow inflicted by the petitioner, hence, the ingredients to invite the mischief of an offence under Section 307 of the IPC i.e. intention and knowledge were clearly absent in the instant case, on the part of the petitioner. In support of his submissions, he has placed reliance on *Narinder Singh and others*

Versus State of Punjab and another, Ramdas Versus State of Madhya Pradesh, Sanjay Kumar Versus State of M.P. and Sivamani and Anr. Versus State represented by Inspector of Police, Vellore Taluk Police Station, Vellore District 2023 INSC 1027. It has also been submitted that Hon'ble the Supreme Court in *Ramdas's case (supra)* reduced the imprisonment already suffered by the appellant therein since it was a case of single injury on the person of the complainant. Hence, the petitioner also deserved to be extended the similar relief. Reference has also been made to *Sanjay Kumar's case (supra)*, wherein the matter was compounded and the conviction set aside after the appellant had been convicted. Learned counsel has submitted that in the circumstances, the FIR in question also deserves to be quashed.

8. Before proceeding further, it would be relevant to reproduce the allegations levelled in the FIR, which is as under:-

"Statement of Vijay Kumar son of Sawan Ram, resident of Hansro, P.S. Sadar, Nawanshahar, District SBS Nagar aged about 33 years mobile No.96530-31982. Stated that I am resident of above said address. On 12.10.203 I had come to my village from Italy after about 5 years. I am not married yet. On 13.10.2023 at about 5.00 in the evening I by riding on my bullet motor cycle going from village Karyam to my village Hansro. When I went 200 meters ahead from the link side of my village Hansro then behind me boy of our village Karan Atwal @ Sandeep Kumar resident of Hansro was coming. He brought his motor cycle parallel to my motor cycle and gave blow with the data which he was holding in his hand, at the back of my head with the intention to kill. For saving my life I ran my motor cycle at a fast speed. At the canal of our village my friend Harmesh Singh son of Santokh Singh, resident of Hanso was standing his vehicle. I by stopping at the canal sat in his vehicle, who got me admitted in Dhawan Hospital where I am under treatment. The motive is that prior to going Italy, I had talk with Aarti sister of Karan Atwal. Then I went to Italy. After I went to Italy, marriage of Aarti was performed with someone. Now we have no talks. Karan Atwal brother of Aarti has given me injury with the data with the intention to kill because I had talk with Aarti, Legal action be taken against him."

9. No doubt, learned counsel for the petitioner vehemently contended that there was no intention or knowledge on his part to commit an offence under Section 307 of the IPC, citing that the complainant/respondent No.2 had sustained only a single injury. However, it needs to be emphasised that the determination of the petitioner’s intention and knowledge in committing the alleged crime is a matter of trial and cannot be addressed in a petition under Section 482 of the Cr.P.C. Moreover, from the allegations detailed in the FIR, which already stands reproduced, *prima facie* it comes across as a premeditated attack. The petitioner was armed with a lethal weapon (*datar*), and struck the complainant on his head from behind while the latter was riding his motorcycle. The complainant/respondent No.2 sustained an occipital wound-cum-fracture, which has already been detailed in para 2 of this order. The nature of weapon used and the seat of injury does *prima facie* attract the mischief of offence under Section 307 of the IPC. The case laws relied upon by the petitioner would not come to his rescue being distinguishable on facts. Hence, in the light of the settled law in *Narinder Singh’s case and The State of Madhya Pradesh Versus Laxmi Narayan and others’ case (supra)*, the instant petition stands dismissed.

10. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

July 22nd, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No