

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

127

CRM-M-6318-2024

Date of decision: 07.02.2024

Rajbir Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Gurpreet Kaur, Advocate for the petitioners.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant (second) petition has been filed under Section 482 of the Cr.P.C. for quashing of FIR No.71 dated 19.04.2020 under Sections 307, 336, 450, 380, 188, 148, 149 of the IPC and Sections 25, 27 of the Arms Act, 1959 registered at Police Station Ajnala, District Amritsar Rural and all consequential proceedings arising out of the same, on the basis of compromise dated 18.01.2022 (Annexure P-3) arrived at, between the parties.

2. Learned counsel appearing for the petitioners submits that subsequent to the registration of the FIR in question, with the intervention of the family members, respectables and other well wishers, the parties have ironed out their differences and arrived at an amicable settlement vide compromise deed Annexure P-3 dated 18.01.2022. Hence, in the aforementioned circumstances, continuation of criminal proceedings would serve no useful purpose as it would be a futile exercise; the FIR in question along with all consequential proceedings arising therefrom, therefore, deserve to be quashed. While

drawing the attention of this Court to untraceable report (Annexure P-5), it has been further submitted that co-accused Jatinder Singh @ Tinda has expired and even an untraceable report was filed by the police which, however, had been erroneously not accepted by the learned Trial Court.

3. I have heard learned counsel and perused the relevant material on record including the allegations levelled in the FIR which has been annexed as Annexure P-1.

4. No doubt, in cases where the offences are private in nature and the parties have amicably settled their disputes, the Court should unhesitatingly go ahead and quash the FIR on the basis of the compromise arrived at between the parties. However, inherent powers of this Court under Section 482 of the Cr.P.C. though vide, are certainly not unbridled, and thus, have to be exercised sparingly and with a great deal of caution and circumspection.

5. Before proceeding further, it would be apposite to refer to the following observations made by the Hon'ble Supreme Court in its various pronouncements with respect to the quashing of an FIR on the basis of a compromise:-

5A. ***The State of Madhya Pradesh Vs. Laxmi Narayan and others : (2019) 5 SCC 688*** wherein the Hon'ble Supreme Court has held 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 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;"

5B. In ***P. Dharamaraj Vs. Shanmugam and others : 2022***

Live Law (SC) 749, the Hon'ble Supreme Court has cautioned the Courts in the following terms:-

"42. Thus it is clear from the march of law that the Court has to go slow even while exercising jurisdiction under Section 482 Cr.PC or Article 226 of the Constitution in the matter of quashing of criminal proceedings on the basis of a settlement reached between the parties, when the offences are capable of having an impact not merely on the complainant and the accused but also on others."

6. Adverting to the case in hand, a perusal of the FIR (Annexure P-1) prima facie reveals that a premediated attack was carried out by all the accusing including the petitioners; all the accused were armed with lethal weapons which included firearms, swords, etc. All the accused including the petitioners actively participated in the occurrence in question and also fired shorts from a pistol injuring the

complainant on his head, which is a vital part of a person's body. Though the matter has been settled between the parties, however, keeping in view the various judicial pronouncements of the Hon'ble Supreme Court which have been referred to in the earlier part of this order, this Court cannot be expected to turn a blind eye to the gravity of the offences as also the factum of there being specific allegations against the petitioners of having inflicted injuries on the person of the injured by giving him continuous blows with an axe which they were allegedly carrying with them at the relevant time. The injury by the petitioners on the head of the complainant was declared to be dangerous to life inviting the mischief of an offence under Section 307 of the IPC.

7. Hence, in the wake of the specific and serious allegations levelled against the petitioners and the injuries attributed to them coupled with the ratio of law laid down by the Hon'ble Supreme Court, this Court does not deem it fit to invoke its inherent jurisdiction under Section 482 of the Cr.P.C. to quash the FIR in question.

8. Accordingly, the instant petition is hereby dismissed.

9. 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.

07.02.2024

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(MANJARI NEHRU KAUL)
JUDGE

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