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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7433-2020

Date of Decision:25.01.2024

Rashpal Singh @ Pappy and others

...Petitioners

Vs.

State of Punjab and others

...Respondents

Coram :

Hon’ble Mr. Justice N.S.Shekhawat

Present:

Mr. P.B.S Goraya, Advocate
for the petitioners.

Mr. Mohit Chaudhary, AAG, Punjab.

Ms. Samriti Aggarwal, Advocate for
Mr. S.P.S Sandhu, Advocate
for respondents No.2 to 4.

N.S.Shekhawat J.

1.
- The petitioners have filed the present petition under Section 482 Cr.P.C with a prayer to quash FIR No.195 dated 11.12.2019, registered under Section 307,506 of IPC and 25/27 of Arms Act, Police Station Majitha, District Amritsar Rural and all subsequent proceedings arising therefrom.
2.
- On 12.09.2023, this Court had noticed the following contentions:-

“At the outset, learned counsel for the petitioners submit that the petitioners as well as respondents No. 2 to 4 belong to the same family and are closely related to each other. He further contends that offence under Section 307 IPC has been added just to make the offence graver and the ingredients of Section 307 IPC are clearly missing in the present case. He further contends that injured Jugraj, had suffered injuries on right thigh whereas Gurdish Kaur had suffered injury on the right arm which are non-vital parts of the body. He further contends that after the registration of the case, the parties are living happily and have no

grudge against each other”.

3. On the other hand learned State counsel has vehemently opposed the present petition on the ground that the offence under Section 307 of IPC is a serious offence and is a non-compoundable.

4. Vide order dated 12.09.2023, this Court had directed the parties to appear before the Illaqa Magistrate/Trial Court, within a period of two weeks and the Illaqa Magistrate/trial Court was directed to submit a report on or before the next date of hearing.

5. In compliance of the said order, the parties have appeared before the Judicial Magistrate Ist Class, Amritsar and got their statements recorded. Report dated 09.10.2023 has been received whereby after recording the statements of the parties, the Court below has shown its satisfaction that the compromise is genuine, voluntary and without any coercion or undue influence.

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

7. The Hon’ble Supreme Court of India has held in the matter of “Narinder Singh Vs. State of Punjab”2014(2) RCR (Criminal) 482 as follows:-

“ 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.

(III) 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 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 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 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. While considering the issue regarding quashing of the FIR under Section 307 of IPC on the basis of compromise, the Hon’ble Supreme Court held in the matter of **“State of Madhya Pradesh Vs. Laxmi Narayan; 2019 AIR (SC) 1296** as follows:-

“13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

i) that the power conferred under section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved 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; iii) similarly, such power is not to be exercised for the offences under the special statutes like 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) 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;

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.”

9. Keeping in view the above stated principles of law, now I would advert to the facts of the present case and the pleadings of the parties.

10. Apparently, it was a case of temperamental differences between the family members and thereafter, the alleged incident had taken place. In the present case, it has been alleged that the injuries suffered by Jugraj Singh and Gurdish Kaur were declared to be dangerous to life. However, first of all, it is apparent that Jugraj Singh had suffered the injury on his right thigh, whereas Gurdish Kaur had suffered the injury over her right arm, which are non-vital parts of the body. Still further, had there been any intention to kill the said persons, the accused could have fired repeatedly and that too on vital parts of the body. Still further, as per the provisions of Section 320 of IPC, any injury which endangers life can at the most be termed as grievous hurt, which is punishable under Section 326 and not under 307 of IPC. Thus, it would be debatable as to whether the offence under Section 307 IPC is made out or not. Apart from that, when common relatives and friends intervened in the matter, both the sides had not only buried their hatchet, but also decided to live peacefully in their homes with their children. Even, in view of the compromise between the parties, there are minimal chances of the witnesses coming forward to depose against the petitioners and his family members.

11. Taking into consideration the above referred pronouncements and taking into consideration the above referred facts, this Court is of the considered opinion that the continuation of the proceedings in the present case would be an abuse of the process of Court. As a consequence, the present petition is accepted and the criminal proceedings arising out of FIR No.195 dated 11.12.2019, registered under Section 307,506 of IPC and 25/27 of Arms Act, Police Station Majitha, District Amritsar Rural are hereby ordered to be quashed.

25.01.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No