

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126

CRM-M-15004-2024
Date of decision: 09.09.2024

KRISHAN
Versus
STATE OF HARYANA AND OTHERS

.... Petitioner
.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

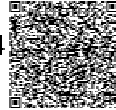
Present : Mr. Jasbir Singh Ahlawat, Advocate for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

Mr. Rajbir Singh Kadian, Advocate for respondents No.2 and 3.

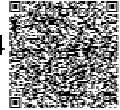
MANISHA BATRA, J. (oral)

1. The present petition has been filed under Section 482 of Code of Criminal Procedure for quashing of FIR No.91 dated 02.05.2020 registered under Sections 323, 324 and 452 of IPC (Section 307 of IPC added later on) at Police Station Garhi, District Jind and all the subsequent proceedings arising therefrom, on the basis of compromise dated 06.03.2024 (Annexure P-2).
2. This Court vide order dated 17.07.2024 had directed the parties to appear before the trial Court to get their statements recorded and the learned Magistrate was directed to send its report qua the genuineness of the compromise.
3. Pursuant to the aforesaid order, parties have appeared before the Judicial Magistrate Ist Class, Narwana and got their statements recorded. On the basis of the statements so recorded, learned Magistrate has submitted report dated 17.08.2024 to the effect that the compromise has been effected between the parties voluntarily and without any coercion or undue influence.



4. Learned State counsel as well as counsel for respondents No.2 & 3 have not disputed the factum of compromise between the parties. However, learned State has severely opposed this compromise and seeks dismissal of the petition because of the heinous nature of the offence and has referred to the judgment rendered by Hon'ble Supreme Court in ***State of Madhya Pradesh vs. Laxmi Narayan, 2019(2) RCR (Crl.) 255, State of Rajasthan v. Shambhu Kewat, (2014) 4 SCC 149, Yogendra Yadav v. State of Jharkhand 2014(9) SCC 653*** as well as ***State of Madhya Pradesh v. Dhruv Gurjar, (2019) 5 SCC 570*** whereby, it has been observed that the heinous and serious offences of mental depravity or offences like murder, rape, dacoity and that of Section 307 of Indian Penal Code, 1860 (IPC) being committed against the society at large are not compoundable under Section 320 of Code of Criminal Procedure, 1973 (Cr.P.C).

5. Learned counsel for the petitioner has also placed reliance upon various judgments rendered by Hon'ble Apex Court in ***Ram Prasad v State of Uttar Pradesh (1982) 2 SCC 149, Mahesh Chand v State of Rajasthan 1990 SCC 781, Dimpey Gujraj v Union Territory, (2013) 11 SCC 497 and Kailash Chand v. State of Rajasthan, 2018(4) R.C.R (Criminal) 292*** whereby the proceedings under Section 307 have been quashed due to the fact that the parties had amicably settled the dispute and buried there animosity during the investigation, there is a bleak chance of conviction as even though the charges were framed but the evidence was still at an infancy stage and there is a no likelihood of repetition of such incident.

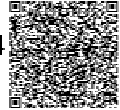


6. It is expedient for the disposal of this case to place reliance upon the judgment passed by Hon'ble Supreme Court in ***Narinder Singh v. State of Punjab, 2014 (6) SCC 466*** whereby it has been observed as follows:

“[24]. Thus, we find that in certain circumstances, this Court has approved the quashing of proceedings under section 307, IPC whereas in some other cases, it is held that as the offence is of serious nature such proceedings cannot be quashed. Though in each of the aforesaid cases the view taken by this Court may be justified on its own facts, at the same time this Court owes an explanation as to why two different approaches are adopted in various cases.

[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:

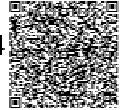
(i) ends of justice, or

(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.

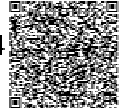
(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

(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



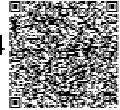
oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

(VI) Offences under Section 307 IPC 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 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 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.

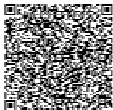
(VII) While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal 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 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.”

7. I have heard the learned State Counsel as well as the counsel for both the parties and besides perusing the report by learned Judicial Magistrate, have also perused the record. In the light of the judicial precedents as referred above, given the terms of compromise and other factors peculiar to the case, the contents of the compromise deed and its objectives point towards its acceptance.

8. It is well settled that the High Court has power to allow compounding of a non-compoundable offence and quash the prosecution under Section 482 of Cr.P.C. where it feels that the same is required to prevent the abuse of process of law or otherwise to secure the ends of justice. It is equally settled position of law that the power of High Court in quashing criminal proceedings or FIR or complaint in exercise of its inherent jurisdiction is of wide plenitude with no statutory limitation. The High Court is required to consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law and whether to secure the ends of justice, it is appropriate to put an end to the criminal case and if the answer to such question is in affirmative, then the High Court is well within its jurisdiction to quash the criminal proceedings. Reference in this context can be made to Hon'ble Apex Court judgments cited as ***Kulwinder Singh and others***



v. State of Punjab, 2007 (3) RCR (Criminal) 1052 and Gian Singh v. State of Punjab and another, 2012 (4) RCR (Criminal) 543.

9. In view of the proposition as settled in the aforementioned cases, this Court finds that continuation of proceedings would be an abuse process of the Court in the facts and circumstances of the present case which squarely falls within the ambit and parameters settled by judicial precedents and that allowing and accepting the prayer of the petitioner by quashing of the FIR would be securing the ends of justice, which is primarily the object of legislature enacted under Section 482 of Cr.P.C. Accordingly, the petition is allowed and the FIR No.91 dated 02.05.2020 registered under Sections 323, 324 and 452 of IPC (Section 307 of IPC added later on) at Police Station Garhi, District Jind and all the subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioner on the basis of compromise dated 06.03.2024 (Annexure P-2).

10. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and statements as recorded before learned Judicial Magistrate.

09.09.2024
Jyoti-IV

(MANISHA BATRA)
JUDGE

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